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U.S. Congress. House.

New York Harbor

Washington

1918

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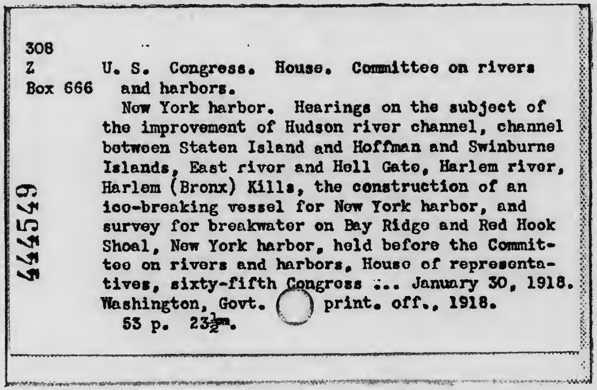

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U. S. Congress. House. Committee on rivers and harbors.

New York harbor. Hearings on the subject of the improvement of Hudson river channel, channel between Staten Island and Hoffman and Swinburne Islands, East river and Hell Gate, Harlem river, Harlem (Bronx) Kills, the construction of an ice-breaking vessel for New York harbor, and survey for breakwater on Bay Ridge and Red Hook Shoal, New York harbor, held before the Committee on rivers and harbors, House of representatives, sixty-fifth Congress ... January 30, 1918. Washington, Govt. print. off., 1918.

53 p. 23½cm.

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TECHNICAL MICROFORM DATA

FILM SIZE: 35mm REDUCTION RATIO: 11:1 IMAGE PLACEMENT: IA [✓ IIA] IB IIB

DATE FILMED: 8-8-97 INITIALS: PB

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NEW YORK HARBOR

HEARINGS

ON THE SUBJECT
OF THE

IMPROVEMENT OF HUDSON RIVER CHANNEL, CHANNEL BETWEEN STATEN ISLAND AND HOFFMAN AND SWINBURNE ISLANDS, EAST RIVER AND HELL GATE, HARLEM RIVER, HARLEM (BRONX) KILLS, THE CONSTRUCTION OF AN ICE-BREAKING VESSEL FOR NEW YORK HARBOR, AND SURVEY FOR BREAKWATER ON BAY RIDGE AND RED HOOK SHOAL, NEW YORK HARBOR

HELD BEFORE THE

COMMITTEE ON RIVERS AND HARBORS

HOUSE OF REPRESENTATIVES
SIXTY-FIFTH CONGRESS

CONSISTING OF

JOHN H. SMALL, North Carolina, *Chairman*.

CHARLES F. BOOHER, Missouri.
THOMAS GALLAGHER, Illinois.
THOMAS J. SCULLY, New Jersey.
SAMUEL M. TAYLOR, Arkansas.
H. GARLAND DUPRÉ, Louisiana.
MARTIN DIES, Texas.
OSCAR L. GRAY, Alabama.
GEORGE K. DENTON, Indiana.
HUBERT F. FISHER, Tennessee.
CLARENCE F. LEA, California.
CHARLES A. KENNEDY, Iowa.
ROBERT M. SWITZER, Ohio.
JAMES A. FREAR, Wisconsin.
DOW H. DRUKKER, New Jersey.
PETER E. COSTELLO, Pennsylvania.
S. WALLACE DEMPSEY, New York.
HENRY I. EMERSON, Ohio.
HENRY Z. OSBORNE, California.
RICHARD P. FREEMAN, Connecticut.

JANUARY 30, 1918

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NEW YORK HARBOR

Committee on Rivers and Harbors,
House of Representatives.
Wednesday, January 30, 1918—10.30 a. m.

The committee this day met, Hon. John H. Small (chairman) presiding.

The following members of the New York delegation entered their appearances:

Representatives Frederick W. Rowe, Isaac Siegel, Edmund Platt, Harry H. Dale, Chas. B. Smith, Thos. F. Smith, James P. Maher, Chas. P. Caldwell, Daniel J. Riordan, Bertrand H. Snell, and Stephen W. Dempsey.

The Chairman. The committee will come to order.

I received on yesterday the following telegram from the president of the Chamber of Commerce of New York, which will be placed in the record of this hearing.

(The telegram is as follows:)

New York, N. Y.,
January 29, 1918.

Hon. John H. Small,
Chairman Committee on Rivers and Harbors,
House of Representatives,
Washington, D. C.:

Regret impossible New York Chamber of Commerce to be represented at meeting before your committee to-morrow. This chamber has always vigorously supported all measures looking to improvement of New York Harbor, on the ground that increased efficiency for this port means increased facilities for the business of the entire country. We urge immediate improvement of East River, Hell Gate, and adjacent waters not only as a commercial but as a naval necessity.

E. H. Outerbridge,
President New York Chamber of Commerce.

Mr. Hulbert, are you ready to proceed?

Mr. Hulbert. Yes, sir.

The Chairman. I am sorry that there are not more members of the committee here, but when we adjourned yesterday we adjourned over to-day, and I was under the impression that we would have a telegram from you if you wished to make a statement to-day. There are several members out of the city, but we have a very reasonable attendance, and we have a committee stenographer with us. I merely offer that statement in explanation.

Mr. Hulbert. I had supposed you had under consideration the proposed annual bill.

The Chairman. We have.

Mr. Hulbert. As you wrote me that I might appear on the 30th I wrote back that that would be acceptable, and as nothing was said about the time. I took it that the committee would meet at 10.30, as heretofore, and that we might be heard as soon thereafter as our train got us in.

The CHAIRMAN. We have, practically, every day until this time.

Mr. HULBERT. There are four matters I wish to present.

The CHAIRMAN. You take charge of the hearing and introduce each one whom you wish to be heard.

Mr. HULBERT. All right.

There are four matters, Mr. Chairman and gentlemen of the committee, which I desire to bring up with respect to this matter, and personally I shall endeavor to be as brief as possible in order to give the gentlemen who have come over here full opportunity to be heard.

It gives me a feeling of homesickness to be back in this room again, and yet I am very glad that since I have resigned from Congress and this committee it has been to take a position under the city government of New York City which will keep me in touch with this committee and with the Engineering Corps of the Army, as formerly.

The CHAIRMAN. That will be very gratifying to the committee.

Mr. HULBERT. I am glad to be assured of that.

STATEMENT OF HON. MURRAY HULBERT, COMMISSIONER OF DOCKS AND FERRIES OF THE CITY OF NEW YORK.

Mr. HULBERT. The Harlem River has been under improvement since 1878. In House Document No. 577 of the Sixty-second Congress, second session, a recommendation was made with a view to straightening the channel at the curve near Johnson's Iron Works. If the gentlemen will look at the map on the wall back of the chairman they will observe that immediately after you enter Harlem River from the Hudson there is a U-shaped bend. Upon the projection there created there is a foundry known as the Johnson Iron Works. When it was originally contemplated straightening out the bend at that point it was understood that so much of the property of the Johnson Iron Works as might be necessary could be purchased for a sum within $1,000,000. The proposition placed before Congress was that if the State of New York would acquire and cede to the Federal Government the right of way for a channel connecting the two ends of the Harlem River on either side of the Johnson Iron Works, the Federal Government would cede to the State of New York the bed of the present channel, which, of course, would probably become obsolete when the new channel was completed.

We have a provision in the constitution of the State of New York which requires that any expenditure in excess of $1,000,000 can only be made after the matter has been submitted to a referendum of the people.

With the breaking out of the war in Europe in 1914 the Johnson Iron Works assumed great activity and began supplying munitions and other war materials to the belligerent countries, and which they are now, I understand, furnishing to this Government, practically working 24 hours a day in 8-hour shifts. The result is that the Johnson Iron Works Co. have placed a valuation upon their property of $7,000,000, which we believe is not only grossly excessive, but

it is feared by the authorities of the State of New York that if condemnation proceedings were instituted to acquire the right of way it would be almost an impossibility to secure an award that would be less than $1,000,000. That, of course, is entirely a matter of opinion. My information is that the attorney general of the State has advised the canal board that it would not be safe for them to institute proceedings in condemnaion under this situation.

Mr. DEMPSEY. You would not have to take the property under the condemnation law, would you?

Mr. HULBERT. Whether we would have to take it under the provisions of the canal act or under the provisions of the general condemnation law, I don't know. However, with that situation in view and with another difficulty which I shall mention in a moment, when I learned that the governor of the State, in May, 1916, had notified the Secretary of War that the State was unable to carry out the terms and conditions under which this improvement was originally contemplated, I brought the matter to the attention of this committee, and at the next session of this commitee, when he rivers and harbors bill was prepared, this committee inserted an appropriate provision for a resurvey of Harlem River.

That bill, although it passed the House, failed in the Senate. It was one of those bills that died because of the filibuster that was conducted at the end of the Sixty-fourth Congress. So the matter had to come before this committee anew at the special session of the present Congress in April of last year.

In the act approved August 8, 1917, that provision will be found for the reexamination of the Harlem River.

Another very serious impediment to navigation in the Harlem River is a bridge which was constructed by the city of New York about 1847, if I recollect the date correctly, known as High Bridge, which at that time, and for many years thereafter, was utilized as a means of conveying a water supply across the Harlem River into the borough of Manhattan. By reason of improvements which have been made in the manner in which this city secures its water supply, that bridge is practically unnecessary. The manner in which the bridge was constructed—the pillars being, I think, only 80 feet apart and set up on supports that run like a pair of stairs, narrowing in the channel as they approach each other in the bed of the river—constitutes a very serious menace to navigation; and for some time the matter of the modification, or the complete demolition of that bridge has been under consideration, and it has been held up, very largely because different organizations in New York City, whose purpose is to preserve historical monuments, have felt that sentiment should prevail over the needs of commerce with respect to the continuation of this bridge in its present condition.

The War Department has power to direct the demolition or the modification of the structure and thus get somewhere in the matter.

The provision in the act of August 8, 1917, was inserted so that the district engineer at New York could review the entire question with regard to the needs of commerce and navigation upon the Harlem River, particularly in view of the fact that on the 15th of next May it is expected that the State barge canal will be opened to navigation. I might state in passing that the department of which I have the honor to be the commissioner communicated with the department of water supply, gas, and electricity, which now has jurisdiction over High Bridge, and that the commissioner of that department is at the present time preparing a statement with respect to the necessities of the bridge and of the cost of its removal and the cost of its modification on two or three different plans, each one of which it is expected will relieve, to a very considerable if not complete extent, the obstacles to navigation at that point; and as soon as the communication comes to me from the commissioner of water supply, gas, and electricity, which I am sure I shall have within the next few days, I intend to transmit it to the mayor for the purpose of having it laid before the board of estimate and apportionment, which is the board of directors in our city government; and I have no doubt that it will be referred to the War Department for reference to the Engineer Corps for conference and recommendation.

In the act approved July 27, 1916, there was also a provision for the reexamination and resurvey of what are known as the Harlem or Bronx Kills separating Randalls Island from the main land of the Bronx—that is, that territory on the east side of the river from Manhattan, which is on the west side. The Harlem or Bronx Kills connects the Harlem River with Long Island Sound, or what is now called the East River, at that point. The Federal Government has always said that if the Harlem or Bronx Kills were deepened, vessels could pass from the Harlem into East River, and vice versa, in a few minutes, whereas now it is necessary for these vessels to go down the Harlem River to and through Hell Gate at Ninety-ninth Street and then pass up again through the East River, requiring approximately an hour's time to make that trip. I am told by men who navigate that particular portion of the harbor's tributaries that, depending on whether you make Hell Gate Channel at high or ebb tide, sometimes tows are detained for a period of six hours. If that be true, considering the scarcity of bottoms in New York and of tugs, many of which have been commandeered by the War and Navy Departments, then every time you are delayed six hours in passing that point you lose the use of tonnage to that extent; in other words, cutting out that delay would be the same as adding to the existing bottoms the amount of tonnage required to absorb that delay. The district engineer recently reported on the Harlem and Bronx Kills new project and recommended an improvement 300 feet wide and 18 feet deep, at an approximate cost of $2,300,000, and adding that Congress should not adopt this project unless and until the city of New York shall first actually begin the removal or alteration of the High Bridge pillars, and unless and until the State of New York provided the necessary right of way for straightening out the channel at the Johnson Iron Works.

With regard to the High Bridge proposition there is not so much difficulty, for, as I have stated, we are working that out, and I think we won't lose any time in doing it. But so far as the condition with respect to the Johnson Iron Works is concerned, we think that imposes terms that are so indefinite in their character, in view of the war urgency for the operation of the Johnson Iron Works at the present time, that the confirmation of that condition would delay the beginning of work on the Harlem or Bronx Kills until after the war. Besides that the State Barge Canal act contemplates and provides for a barge canal terminal at One hundred and thirty-eighth Street, in The Bronx, which is on the East River, and the State Barge Canal act imposes this condition, that this State Barge Canal terminal shall be constructed if and when the Federal Government shall have improved the Harlem or Bronx Kills; so that if the Harlem or Bronx Kills project is made a condition upon which the remodeling of High Bridge and the straightening out of the channel at the Johnson Iron Works are to be completed, to take care of the navigation that is expected to result from the opening of the barge canal, and if, on the other hand, the barge canal can not be completed, so far as furnishing the terminal is concerned to handle the commerce that you expect will come down there, until the State and city have made the two conditional improvements that the Government insists upon before the Government will improve the Harlem or Bronx Kills, you will not get anywhere, because until the one is provided the other can not be provided; and you are simply playing "ring around the rosy."

Mr. Switzer. There where the Johnson Iron Works are located, is there any way of taking care of that proposition other than the one suggested?

Mr. Hulbert. There are several ways. The engineer, in House Document No. 567, Sixty-second Congress, second session, submitted three plans by which it could be done. Of course the thing we have suggested in regard to that is this: The district officer in New York made his reexamination. I furnished him with the names of all the people I knew who were interested. I rather expected there would be a hearing, but they proceeded in the regular way and made up a report. The report is practically a confirmation of the existing project, which is, as I say, inoperative under its present terms and conditions. Yesterday I appeared before the Board of Engineers for Rivers and Harbors, and they have sent back to the district officer the report on the reexamination of the Harlem River, and if they give us a hearing in New York and make it a public hearing, which the people interested may have notice of and have opportunity to attend, we believe we will work that situation out so far as the Johnson Iron Works are concerned. That will mean delay. That should not defer consideration at least of the Harlem or Bronx Kills project, which is an entirely separate and independent survey.

Mr. Kennedy. Is there any assurance that this matter will be taken up by the city of New York?

Mr. Hulbert. Which matter?

Mr. Kennedy. The High Bridge matter.

Mr. Hulbert. Yes, sir. I have just explained that we are proceeding with it as rapidly as it can be done.

Mr. Kennedy. How rapidly can it be done?

Mr. Hulbert. I would not be able to make any better estimate of that than I would of how rapidly the rivers and harbors bill is going to pass through Congress. It will be as quickly as possible.

Mr. Kennedy. Is there any likelihood that it will be attended to within three or four years, altogether?

Mr. Hulbert. My judgment is that it will be attended to before you have a rivers and harbors bill at the next December session of this Congress.

Mr. Dempsey. Couldn't that be dealt with in the way you suggest?

Mr. Hulbert. The Army engineers could order that bridge removed, and they would have to take it down. But the War Department don't want to act arbitrarily. They want to let the people determine what is best for themselves from every viewpoint. I have suggested to Col. Newcomer that some action be taken by way of serving notice on the city that it must proceed immediately to remodel that bridge, even to demolish it, and that would expedite the matter. The new administration, which began on the 1st day of January, desires—and it is the mayor's desire; in a communication he has expressed it to me—to have this improvement completed without any unnecessary delay; and under his direction, I have been trying to expedite it as commissioner of docks and ferries.

On last Saturday, the 26th, at a conference held at my office, there were present: Hon. John H. Delaney, commissioner of the department of plant and structures; Mr. R. G. Finch, representing the State engineer and surveyor; Mr. E. A. Byrne, chief engineer plant and structure; Mr. Olin J. Stephens, of the Bronx Board of Trade; Mr. Oscar A. Thees, of the Harlem Board of Trade; Mr. J. W. F. Bennett, former consulting engineer Borough of the Bronx; M. W. L. Kuehnle and Mr. J. H. Rostock, representing the United States district engineer's office; Mr. P. J. Feldman, of the corporation counsel's office; Mr. C. W. Staniford, chief engineer department of docks and ferries; Mr. W. W. Brush, chief engineer department of water supply, gas, and electricity; Mr. L. F. Haffen, consulting engineer Borough of the Bronx; Senator Sheridan; and Hon. Charles F. MacLean. At that conference, held in my office, three ways of handling this proposition were discussed. It was the sense of the conference that the report of Maj. Adams should be referred back to the local district engineer's office for reconsideration and hearing. It was also the sense of a majority of the conference that the structure of High Bridge should be removed. I merely cite that to indicate that we are moving heaven and earth in New York to get this thing through, and I think we are coordinating every department of the government of New York City in order to make this thing move with all celerity possible. We feel that with this disposition on our part to push this thing through without any delay, Congress will cooperate with us, so that there will not be any delay on anybody's part.

Mr. Switzer. Can a regular towboat going down the Hudson River go through around the Johnson Iron Works?

Mr. Hulbert. We have several towboats that do take tows down there, but, in my opinion, they can not do it as economically and as efficiently as they could do it if the channel were straightened at that point.

Mr. Switzer. I know; but do they take them around there now?

Mr. Hulbert. They do. But they are operating now with a smaller class of boat than they intend to operate when the State Barge Canal is opened up.

There are two other matters now that I desire to take up. I don't know whether I should speak first upon those and complete my statement or whether I should suspend and allow these other gentlemen to speak on the Harlem River and the Harlem or Bronx Kills.

The Chairman. I think you had better complete your remarks, Mr. Hulbert.

Mr. Hulbert. Very well.

In the river and harbor act of August 8, 1917, I will read from page 2, as follows:

> East River, N. Y.: For improvement in accordance with the report submitted in House Document No. 188, Sixty-third Congress, first session, and for a 40-foot channel through East River and Hell Gate, in accordance with the report submitted in House Document No. 140, Sixty-fifth Congress, first session, $1,250,000.

From the report of the Chief of Engineers for 1917 I read from page 221 as follows:

> *Existing project.*—The existing project provides for a channel from deep water in the upper bay to the Brooklyn Navy Yard 40 feet deep and 1,000 feet wide; for a channel from Brooklyn Navy Yard to Throgs Neck 35 feet deep, with widths varying from about 550 to 1,000 feet, according to locality, to be deepened ultimately to 40 feet.

And from page 222 of the same report I read as follows:

> The estimated cost, exclusive of amounts expended under previous projects, is $36,900,000.

From the public press I notice that the Chief of Engineers has recommended a provision for 1918—I assume that means the fiscal year 1919—$2,200,000.

In the first place, I do not understand that there is any equivocation on the part of this committee to comply with the 40-foot recommendation, and I don't see how the language, as I read it in the bill, is susceptible of any other interpretation. Secondly, the bill was a war measure, and the improvement of Hell Gate was regarded particularly as a war measure. If the improvement of East River is going to cost $36,900,000, and even in a year when we are at war with a foreign power you are going to appropriate only $2,000,000, it will take about 18 years to complete it; and if it is going to take that long to complete the job, then it is not a war measure.

Now, we have had this experience, that a project, began in 1868, for a 26-foot channel, when it was practically abandoned in 1913, was less than 70 per cent completed, and we have no 26-foot channel yet. Now, when that project was begun the commerce on the East River was very small, compared with what it is now. There has been an increase from $1,500,000,000 to over $4,000,000,000 since 1914.

Last fall the battleship *Texas*, one of the capital ships of the Navy, went ashore at Block Island or Fisher's Island—I don't recollect which—just as you turn into Long Island Sound. She stove in her bow and filled with water. When they finally pulled her off she drew at about 36 feet. They could not get her down through Hell Gate to the Brooklyn Navy Yard. You could not have gotten her down to the navy yard even if you had made the improvement in accordance with the Chief of Engineer's interpretation of the statute you passed last year. That vessel had to lie off the point where she struck until the weather moderated and they could take her the outside way to the navy yard.

Mr. Booher. What was the cause of that?

Mr. Hulbert. I don't know.

Mr. Booher. You don't know?

Mr. Hulbert. I couldn't say; I don't know.

The thing I want to emphasize is that here we are with our country at war and this vessel floundered at the east end of Long Island, with enemy submarines navigating all over the seas; and if by any means the presence of that ship could have been communicated to the enemy a submarine might have come in at that point and sunk her, with the complete loss of the vessel; and the loss of that vessel—to say nothing of the loss of human life—would have represented more than the cost of the construction of the Hell Gate project, and besides you would not have your vessel. It is not so long ago that the *Olympia* went aground off the east end of Long Island—I don't know on what island or reef. They could not bring her up to the navy yard through Long Island Sound, and could not take her around to Boston. She laid there several days until calm weather came. These are two specific instances since the passage of this law, which was passed as a war measure, that show the necessity for this improvement and give concrete evidence of the urgency for speeding up the work.

Mr. Booher. How much money was appropriated?

Mr. Hulbert. The recommendation was for $6,000,000, but it was cut down.

Mr. Dupré. Are you sure that you could spend that much?

Mr. Hulbert. I don't know.

Mr. Dupré. Isn't it up to you to see?

Mr. Hulbert. Let me answer your question, if I may. When I came upon this committee we had a project before us of $13,400,000 for the improvement of the East River. The recommendation made by the Board of Engineers, recommending the adoption of that project, specified that the improvement should be undertaken at the rate of $500,000 per annum. When the engineers came before this committee, and in answer to questions propounded by myself, they said that because of the tremendous commerce upon the East River, if you undertook to spend more than $500,000 a year, you would so interfere with the commerce that it would be uneconomical and inadvisable to do so. And yet, after you had appropriated $1,250,000 for the improvement of the East River, the Chief of Engineers appeared before the Senate Committee on Commerce and recommended the substitution of a continuing contract of $5,000,000. That was the bill that failed due to the filibuster last year. The department recommended and the committee appropriated $1,250,000 in addition to the amount then available, which was approximately $750,000; so that there was available over $2,000,000 last year. Therefore, I say this, that if they could recommend an increase from $500,000 to over $2,000,000 in one year, and if the district engineer found, as a result of his investigation, that you could spend $6,000,000 within the fiscal year, if appropriated, I think it is a reasonable proposition that a substantial appropriation—in answer to the question of my friend from Louisiana—is altogether within the bounds of reason. I am told by engineers in New York that the entire project, so far as a through channel is concerned, can be undertaken and completed within three years; and if that is so, I would like to ask why it is necessary to let out the work to take 18 years.

Mr. Dempsey. You will not lose the money even if it is not expended.

Mr. Hulbert. No; of course not.

Mr. Dempsey. You have the work to do, but haven't the money to do it.

Mr. Hulbert. That is precisely it; and we can not do it without the money.

Let me say this, if I may: You have what may be termed a very heavy responsibility that, by the way, I would like to refer to. In the last bill you were good enough to include a provision for the appropriation of $1,360,000, if I remember it correctly. No; that is not it; that is the total amount of the project. You appropriated $600,000 to commence work on the project for the widening of the channel from the Battery to Canal Street in the Hudson River and for the removal of the shoal from Thirty-third Street along the east side of Hudson River to Sixtieth Street. I have brought to your attention the fact that the city of New York under a previous administration had constructed a modern, up-to-date thousand-foot pier at a cost of about $4,000,000, for the accommodation of vessels drawing up to 40 feet of water; and after they had the pier constructed it developed that they had only 18 or 20 feet in front of the pier to get their ships in. This committee was good enough to put a provision in the bill that was passed on the 8th of last August, and other Members stood on the floor of the House and ridiculed the work as a war measure, claiming that it could not be done in three years, and the war would be over. The shoal has been removed and the pier is accessible except for a slight bit of dredging that remains to be done in the slip, that is going on now; and the city of New York has turned that pier over to the United States Government, and it is intended to be used to load the largest steamship that entered New York Harbor prior to the war with supplies for our troops and our allies; and that was made possible by the fact that you carried that provision in that bill and passed it in the face of the ridicule that was heaped on it on the floor of the House on the ground that it was impossible to do the work.

Now, we have agreed to turn over to the Federal Government all the piers from Forty-fourth Street to Fifty-seventh Street on the Hudson River. In addition to that, the Federal Government has commandeered what is known as the Bush Terminal in South Brooklyn. In addition to that, we have turned over certain other piers in South Brooklyn for the exclusive use of the Navy. And I have in my bag now plans that I am working out for turning over other piers to the Government in New York Harbor. These piers, I am told by the War and Navy Departments and by the Shipping Board, are absolutely essential to the successful prosecution of the war; and in order to turn those piers over to the Government it will be necessary to provide other piers, because that means that the steamship companies that have been using these piers since their construction will be put out and will have to find accommodations elsewhere.

Mr. Gallagher. What are the Bush Terminals? It is probably not generally understood what they are.

Mr. Hulbert. They are terminals over in South Brooklyn owned by the Bush Terminal Co., and in connection with them the Bush Terminal Co. have warehouses, and there are a lot of manufacturing industries immediately back of the warehouses; in other words, it is a coordinated terminal enterprise over there that is intended to facilitate manufacturing and shipping. The Government has taken them over and will make a great Army depot there. More than that I do not wish to say about them. Perhaps it is unwise to say as much as I have said. I think, however, that the matter has appeared in the public prints.

Mr. BOOHER. Do you know how much money was remaining on the 30th day of June of this appropriation?

Mr. HULBERT. I don't know now.

Mr. BOOHER. It was $1,800,000.

Mr. HULBERT. That may be.

Mr. BOOHER. So that if you get this appropriation of $2,200,000, you will have $4,000,000.

Mr. HULBERT. I don't think it is enough. I think that money is largely obligated by contracts that are being worked on. As Mr. Dempsey says, it is not doing any harm to appropriate the money, because it won't be lost if it isn't used. My suggestion is—and I can not urge this too strong when the object of improving the waterways is to accommodate the Navy—that a lump-sum appropriation be made for New York Harbor, to be expended if, when, and where the Secretary of War, or the Chief of Engineers deems it necessary and advisable; because, Mr. Chairman and gentlemen, the circumstances under which we have to build piers are such that we have to build the piers where the people will use them. We may, for instance, have a concern that will go over to Staten Island and use a pier over there only because the nature of their business is such that they can be accommodated there as well as anywhere else. There are others that will insist on piers in other parts of the harbor, where perhaps the water is not deep enough to enable their ships to get up to the pier without improvement of the waterway. If a pier is desired to be constructed at a certain point, we want to know from the War Department that if we undertake to construct that pier the War Department will simultaneously undertake the improvement of the channel approach, and that they have the money with which to undertake it without having to wait for Congress to convene.

Mr. DEMPSEY. In reference to the congestion of freight traffic, it is not alone that there has been great freight congestion in New York during the present emergency, but it was congested for a long time with a large amount of Government shipments that had been coming in there for shipment abroad.

Mr. HULBERT. There is no doubt about that.

Mr. DUPRÉ. Did you advocate lump-sum appropriations when you were a Member?

Mr. HULBERT. I have always been an advocate of continuing projects.

Mr. DUPRÉ. That is not answering my question.

Mr. HULBERT. I have not, as a general proposition, favored lump-sum appropriations, but to any rule there is always an exception. This is necessary for the emergency that exists, because the country is at war; but that was never put up to me on a lump-sum proposition. What I was not in favor of was a proposition to make a lump-sum appropriation to be distributed all over the whole United States, such as the gentleman has reference to, as provided by the Burton amendments in the Senate to the bills passed by this House.

Mr. SWITZER. It is proposed to use the southern ports now, such as Galveston and New Orleans and——

Mr. HULBERT (interposing). Not Galveston, but Charleston and Savannah.

Mr. SWITZER. It says so in the newspapers.

Mr. HULBERT. It may be in the newspapers.

Mr. SWITZER. The use of these ports will help to relieve the port of New York.

Mr. HULBERT. There is no doubt about that.

What I want to call your attention to is the fact that you are handing out millions and millions of dollars to build additional tonnage, and you will have to have adequate facilities for handling it when you get it in operation.

Mr. KENNEDY. Do you mean the lump-sum appropriation should apply wherever the engineers think the work should be done?

Mr. HULBERT. In New York Harbor.

Mr. KENNEDY. Without regard to whether the project has been adopted by us or not?

Mr. HULBERT. No. You misconstrue what I had in mind. There has always been a project adopted for the improvement of the East River.

Mr. KENNEDY. For the improvement of East River?

Mr. HULBERT. Yes; and for the improvement of the Hudson River. There is a project before this committee, which we have tried unsuccessfully to get adopted, for the improvement of Bay Ridge Channel. I am not interested in that now, because the Quartermaster Department must do the very thing now that I suggested you ought to do last year, to use the Bush Terminals. They have the money with which to do that. It is an Army project and is under the jurisdiction of the Quartermaster Department. That work would have been finished and ready for the use of the Army if we had acted favorably on it then, just the same as the Forty-sixth Street Pier is ready now.

Mr. KENNEDY. You have not answered my question.

Mr. HULBERT. I will answer your question. We do not intend to build any piers in New York City at any point except on the East River and on the Hudson River, and perhaps in the lower bay. Any piers that we construct on the East River—perhaps I am not able to say this authoritatively without examining the report—will be covered by the project that has already been adopted. That is also true of anything we do on the Hudson River. But I do not believe, in this emergency, that you ought to tie us to that, for this reason: Congress, so far as this committee is concerned, has not heretofore authorized the appropriation of any money for any project that has not been examined into and adopted; but Congress has authorized, as a war measure, the Quartermaster Department of the Army and the Navy Department to dredge all channels wherever they may find them necessary. If that has been done as a war measure in those departments, why not do it, through the Engineer Department, with reference to New York Harbor?

Mr. BOOHER. If this is so necessary as a war-emergency measure, then haven't the War and Navy Departments the power to dredge it?

Mr. HULBERT. No; because they do that only in connection with leases for their own purposes.

Mr. BOOHER. Isn't this for war necessities?

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Mr. Hulbert. It is for commercial necessities, but it is primarily for the purpose of letting us surrender property for governmental purposes and build other facilities for those needing them. Suppose the Government should say, "Here is a pier we want." Suppose it were impossible for the city of New York to authorize the construction of another pier to accommodate the vessels that had formerly been accommodated by that pier which the Government wants. Suppose we said to the Government, "We can't let you have that pier." Why, New York City would immediately be charged with holding up the war.

Mr. Dempsey. You make a suggestion. Your suggestion is, as I understand it, that the Army and Navy, for what are properly termed Navy purposes, can do this port dredging but can not do it for commercial purposes, even if intimately connected with and necessary for the successful prosecution of the war.

Mr. Hulbert. Yes, sir.

Mr. Dempsey. If you had a lump-sum appropriation for this emergency, as you suggest, that would enable you, would it not, to do the necessary work?

Mr. Hulbert. Precisely.

Mr. Dempsey. Suppose, after the lump-sum appropriation is made, you obtain, as you will make an effort to obtain, arrangements with the Johnson Iron Works, then you will have means at hand with which to conduct and carry on your improvement. You have, your lump-sum appropriation ready to use anywhere you need it.

Mr. Hulbert. Well——

Mr. Dempsey. Knowing that the money was available, you would go ahead and get the consent, or make the arrangements, of whatever may be necessary, to carry on the work.

Mr. Hulbert. We don't intend to build any piers for the Johnson Iron Works. That is point one. Point two is this: The resurvey or the reexamination of the Johnson Iron Works, which was sent down by the district officer to the Board of Engineers, was returned or ordered returned yesterday by the Board of Engineers to the district officer, and we are going to have, as I take it, a hearing upon that proposition. There won't be anything done in regard to that until after the hearing and report is made by the district officer, and then a report by the Board of Engineers or the Chief of Engineers will be communicated to this committee.

The point I am emphasizing is that there should be some means for immediate relief of the situation, so that the work may be speeded up. I agree with the suggestion made by Mr. Dempsey that if you can not spend the money the Government will lose nothing. You can't lose it if you don't spend it.

Mr. Dempsey. That is right. The district engineer reported at the time that there should be an appropriation of $6,000,000. That is the situation, as I understand it. That has been modified here. It has been modified to $2,200,000 right here in Washington, not in New York.

Mr. Hulbert. You passed at the last session of Congress, at the suggestion of the War Department, a provision for a 40-foot channel through the East River, as a war measure, and they tell you it will cost $36,900,000; and yet if they appropriate only $2,000,000 a year,

it will take 18 years to complete the work. If you will look at the map you will observe a tremendous undeveloped territory there, where Col. Newcomer is pointing [Bronx East River front]. New York is growing rapidly; we add 100,000 in population each year. If we take 18 years to complete this work, you are tying a noose around our neck, and you can not get the people of New York to invest unless they know what the policy of the Federal Government is going to be in regard to these improvements. That is the difficulty that is confronting us.

Mr. Dempsey. When this proposed modification was up for consideration, did you appear before the Board of Engineers on Rivers and Harbors?

Mr. Hulbert. No, sir; I didn't have any notice of it. Nobody did have notice, as far as I know. I talked with Col. Newcomer about this Bronx Kills proposition both before and after we went to Texas last November and I think I sent a telegram asking that a hearing be held before the board; but we did not have an opportunity to appear upon any of the occasions when the matters were taken up. It was an ex parte proceeding. That is why we are here.

There is a bill before this committee, H. R. 9170, to provide for an ice-breaking vessel for use in New York Harbor. I don't want to go extensively into that matter. I have a communication here from the towing lines in New York Harbor, showing the damages sustained during this unusual period, which is just as bad in other winters, except that it is not for so long a time. I have a letter from the admiral of the navy yard in New York and numerous other people. I have a statement showing the damage that has been sustained. The Cornell Steamboat Co. have 10 out of 20 tugs out of commission, representing a loss of $45,000. I have a report from the Tyson people, showing that their loss—and this is for damage only, and not for loss of profit—is $23,500. There is a long list of them. I will not take the time to read them, but I will file the statement.

(The statement is as follows:)

DAMAGE TO VESSELS IN THE HARBOR OF NEW YORK OCCASIONED BY ICE, SEASON OF 1917–18.

JANUARY 28, 1918.

The following estimates have been received by the dock department as to the amount of damage sustained by tugs in breaking ice in the harbor this winter in order to place coal boats and other vessels in berths. This does not take into account the loss of the use of the equipment occasioned by delay in moving boats—the additional towing charges—nor does it take into consideration the loss of the use of vessels owing to the lack of tugboats to move them. Neither does it include the loss of time and equipment due to the congestion of the dry-docking facilities in this harbor occasioned by the extraordinary number of vessels of all kinds waiting to be docked. It should be borne in mind, moreover, that this work is very hard on tugs and considerable damage was done to the hulls, as well as to the copper sheathing on the bottoms of the vessels which can not be discovered until they are placed on the dry docks for overhauling:

Owner:	Damage.
Fred B. Dalzell & Co	$2,000
C. F. Harms & Co	Unknown.
Hudson River Lighterage Co	Do.
Lehigh Valley Railroad Co., 3 boats sunk	Do.
New York Dock Co	Do.

Owner—Continued.	Damage.
Cornell Steamboat Co., 10 out of 20 tugs out of commission	$45,000
Cement Lighterage Co., delay in movement of boats	None.
Cleary Bros., 5 boats damaged	Unknown.
Flower Lightering Co., sundry damage	Do.
John E. Moore Co., sundry damage	Do.
Jarvis Lighterage Co	3,500
King Transportation & Supply Co	3,500
Harbor Lighterage Co., delay	Do.
Baltimore & Ohio Railroad Co	3,131
C. W. Crane & Co., delay	None.
Rogers Lighterage Co., delay	Do.
New York & Albany Lighterage Co., delay	Do.
Carroll Towing Co., 1 tug sunk, 2 tugs wheels broken, 5 tugs leaking badly, 2 tugs broken planks	Unknown.
Tice Towing Line	23,500
Powelton Barge Co	None.
Wright & Cobb Lighterage Co., 1 broken propeller, 1 broken rudder	Unknown.
Edward G. Murphy Lighterage & Transportation Co., 2 boats damaged, 1 boat sunk	Do.
Thames Tow Boat Co., 2 tugs damaged	Do.
Forest Towing Line, 4 planks stove in	Do.
Moran Towing & Transportation Co	Do.
Ackerman Towing Co., 1 tug broke wheel, 1 tug unshipped rudder, 1 tug did considerable damage to stem	Do.
New York, New Haven & Hartford, many tugs damaged, estimate of damage can not be arrived at until vessels are placed in dry dock	Do.
Baltimore & Ohio Railroad Co., 13 cases of marine damage to tugs	Do.
George L. Hammond & Co	3,000
Anthony A. Boyle, 3 boats sunk	68,000
Long Island Railroad Co	500
Central Railroad of New Jersey, 6 tugs damaged, number of lighters damaged	Unknown.
McWilliams Bros., 2 barges damaged, 3 tugs holes stove in bottoms	Do.
General Towing Co., 1 powerful tug damaged and put out of commission	Do.

Mr. W. B. Pollock, marine director for the railroads of New York, working under authority of Mr. A. H. Smith, assistant to the Director General of Railroads, under date of January 15, 1918, states:

"Yesterday there were no less than 31 railroad tugboats out of commission, principally from the reason of damage sustained while towing vessels through the ice. * * * The ice conditions in the Arthur Kull and Kill Van Kull are very bad. Four coal barges of the Pennsylvania Railroad Co. were sunk near South Amboy two or three days ago, and two or three were sunk at Elizabethport and two or three near Yonkers."

Westchester Creek was frozen solid so that navigation was impossible, making it inaccessible for deliveries of coal to merchants along the stream, as well as The Bronx Gas Co., which supplies a large portion of The Bronx with lighting and heating.

Pelham Bay and Eastchester Creek were impassible for coal boats, so that there was serious danger of the Westchester Lighting Co. obtaining the necessary coal. This company supplies a portion of The Bronx and a large part of Westchester County with lighting and heating.

No data has been obtained from the United States Government as to the damage done to its floating equipment, but it has been rumored that four submarine chasers were sunk or badly damaged at the navy yard during the efforts to break a channel in the ice.

FEBRUARY 1, 1918.

Supplementing my statement of the 28th ultimo as to the damage to vessels in the harbor of New York occasioned by ice, season of 1917–18, an investigation has been made as to the character of the boat which would fill the requirements

of this port for ice-breaking, and in my opinion the most desirable craft would be a combined fire boat and ice breaker such as was built for the Copenhagen (Denmark) harbor board in 1916.

This vessel is very sturdy and powerful, has splendid accommodations for her crew, and is fitted for towing purposes, has a wireless outfit, powerful wrecking pumps and gear, searchlight, large bunker capacity and tanks, and is altogether a complete, modern, and excellent boat for the purpose intended. This boat makes longer trips and has heavier ice and more severe conditions generally to deal with than a boat of this character would be called on to negotiate in this vicinity, and for this reason and in view of the fact that probably the major portion of her duties will be as a fire boat around congested slips where handiness is a prime necessity it is suggested that the dimensions of the Copenhagen boat be modified to suit our conditions, and I am giving below suggested dimensions of proposed boat as compared with the aforesaid boat, viz:

Danish.

Length on deck	147 feet.
Breadth, molded	37 feet 6 inches.
Engine	$\frac{22 \text{ by } 35 \text{ by } 58\frac{1}{2} \text{ inches}}{36 \text{ inches}}$
Horsepower	2,000 indicated horsepower.
Boilers (3)	13 feet 3 inches diameter; 11 feet 6 inches long.
Boilers, pressure	200 pounds.
Propeller	Nickel steel, 12 feet 9 inches diameter.

Proposed.

Length on deck	135 feet.
Breadth, molded	31 feet.
Engine	$\frac{19\frac{1}{2} \text{ by } 31 \text{ by } 52 \text{ inches}}{32 \text{ inches}}$
Horsepower	1,500 indicated horsepower.
Boilers (3)	B. & W. watertubes.
Boilers, pressure	180 pounds.
Propeller	Nickel steel, 11 feet diameter.

Fire pumps, as decided.
Wrecking pumps, as decided.
All other details, as decided.

The modern and accepted way to break heavy ice is to apparently run up on it. This is accomplished by designing the boat with a cut-away or sleigh-runner bow and sinking her by the stern by pumping salt water in a large stern compartment and at the same time emptying the bow tanks so as to lighten the forward end of vessel as much as possible. A vessel built and trimmed in this manner makes use of her weight as well as her power in breaking ice, and, furthermore, she can never become jammed in the ice, as so frequently happens to straight-stem, deep-bowed vessels.

The CHAIRMAN. You may file that with the clerk before you leave.

Mr. HULBERT. There is a sum of money for the removal of driftwood from the waters of New York Harbor. If it is necessary to take driftwood out of the harbor in other seasons of the year, as an improvement to navigation, it seems to me that it is equally the duty of the Government to maintain an open channel in the navigable waters of New York Harbor at those seasons of the year when they are blocked by ice.

Mr. DEMPSEY. What do you call that operation?

Mr. HULBERT. It might be likened to what you call it when you take boughs out of the river.

Mr. BOOHER. Snagging.

Mr. HULBERT. Snagging, yes.

You will find a unanimity among steamboat and tugboat men in New York City for this bill.

Mr. Booher. Have you any of those ice boats now?

Mr. Hulbert. We have not. We are using ordinary tugs, which are not suited for that purpose, because they sit down in the water at the nose and run flush into the ice cake; there are boats built especially for this work. Take the *Florizel.* We paid $100 an hour for her while she was in port. That is a vessel built for the purpose, and it runs along with a high nose and presses the ice down and in that way breaks it up. That is the method used on the Great Lakes.

Mr. Snell. And they use them in Alaska.

Mr. Hulbert. Yes; and at other places like Newfoundland and places of that kind. This bill has been introduced by Rep. Thos. F. Smith of New York, at the suggestion of my department, and we would like very much to have the consideration of this question taken up by the committee, and if it deems it proper to do so, to include it in the rivers and harbors bill in the same way you include the driftwood proposition, to remove impediments to navigation from the channels of New York Harbor and elsewhere.

I believe that is about all I care to say about these matters. I don't want to take up too much time, because there are a number of other gentlemen here who wish to speak and whom I desire the committee to hear.

The first one I will introduce is former Supreme Court Justice Charles F. MacLean, of New York, who is particularly familiar with the Harlem River and with Harlem or Bronx Kills, but who has made a deep study of water-way conditions in New York, and who has also presented a great deal of legislation which is now on Federal and State statutes in regard to water-way questions.

STATEMENT OF HON. CHARLES F. MacLEAN, FORMER JUSTICE OF THE SUPREME COURT, NEW YORK CITY, N. Y.

Mr. MacLean. Mr. Chairman and gentlemen, the improvement of the Harlem River seems to be predicated upon the elimination of the Johnson Iron Works bend and on the modification or the elimination of the piers of High Bridge. If there is to be a hearing, as is anticipated by Mr. Hulbert, in New York on the Harlem River improvement, then it is not expedient to occupy the time of this committee with an extended discussion of that subject. It happened that I drew the legislation adopted both by the State of New York and by Congress in respect to the improvement of the Harlem River. The statute of the State of New York in that behalf provides for affording the right of way suggested or demanded by the Engineer Department of the United States by anticipating something to be received from the abandonment and cession of the present channel. The State of New York was to issue and sell its certificates up to $1,000,000. It is erroneous to say that that has relation to the constitutional limit of the State of New York. It has practically been decided in a case in New York that the scheme or plan is constitutional.

I am of the opinion, also, that the condemnation proceedings may be had under our general law to obtain possession and ownership of the Johnson Iron Works property, without putting the canal commission to the hazard of criminal prosecution, as seems to be the opinion in Albany, mayhap for the reason that the law department of the State in Albany and the engineering department have been occupied with the condemnation of property for the Barge Canal under the administration of the Barge Canal under the special act. The provision for the condemnation of that property is in our general condemnation law, which provides for the abandonment of the proceedings if it turns out that the price will be too much. Like the old saw of Lord Maule, who said that an action is like lighting a candle—you can blow it out when you want to.

As to the improvement of Harlem River and East River, it seems to be a very important improvement to the whole country for this reason, among many others, that the improvement of the Harlem River would benefit all the States littoral to the Great Lakes, which have 58 ports—57 besides Chicago—and handle in the way of tonnage about 220,000,000 per annum; with the opening of the Barge Canal through the State of New York it would supply the one wanting link between the Hudson River and the Sound, about 8 miles, at a cost of a little over a couple of millions, providing a waterway which our engineers have had in contemplation and have spent a great deal of time and money in making out calculations and reports for many years.

That will make a waterway for transportation from ports on the Great Lakes, through the Barge Canal, to the Sound and to New England. It will greatly benefit 15 States, the great industrial States of the Union, from which come 75 per cent of all the revenue of this Union; the other 33 States contributing on an average less than seventy-six one-hundredths of 1 per cent apiece. The importance of the port of New York to this Union is not within ordinary calculation. The opening of the Erie Canal on October 26, 1825, made the Erie Canal a national asset. It was the opening of a natural waterway, which had been used time out of mind, and which was a complete waterway from the Hudson to the extremest limit on Lake Superior, saving portages of 30 odd miles—16 miles at Schenectady, 6 miles at Little Falls, and 3 miles of the connection at Wood Lake, between Oneida Lake and Oneida River, running into Lake Ontario, and the long carry around Niagara.

It is a digression, but it is notable that it was of this very channel that George Washington wrote in his notable letter to Marquis de Chacteleus and of which he spoke before the legislatures of Maryland and of Virginia after he made his trip over that country.

Now, there is no other waterway between the Atlantic and the Great Lakes, which can be brought into competition with it, and everything that is done to promote that waterway increases not only the prosperity, but the convenience and the commerce of these great States upon which the whole country depends for its development and improvement. It is true that this greatly advantages the city of New York. It has made the city of New York the great manufacturing place of the Union, for we manufacture in New York City one-tenth of all the manufactures of the United States.

The Chairman. In quantity or value?

Mr. MacLean. Both. New York City incidentally is the one place in the United States which produces a substantial revenue for the Postal Department. Year before last it contributed a net profit of over $19,000,000—about 3 per cent of the revenue. New York City and State produce 39.76 per cent—practically 40 per cent—of all the revenue of the United States; so it must be good business to do anything that will facilitate that commerce.

Respecting the improvement of the East River, that is also of singular importance to the United States. The naval appropriation bill adopted year before last contained in it an authorization, and a direction in effect, that the Secretary of War and the Secretary of the Navy should recommend a plan for improving certain harbors on our seaboard for defensive purposes. That was submitted to the joint board composed of our highest naval officers and Army Engineers. As to the port of New York the joint board bespoke a channel through the East River of 35 feet, with a recommendation of 40 feet, as a war measure.

Under the terms of the naval appropriation bill, that channel was to be completed within five years, and as much sooner as achievable. This appears in Senate Document No. 3, and the identical House Document No. 140 of the last Congress, in which that recommendation is set forth, a recommendation approved not only by the joint board of the Army and Navy as a war measure, but also by the Secretary of the Navy and the Secretary of War and by the President himself; so that we have an authoritative approval of such a channel through the East River. The importance of it commercially is great; the importance of it as a war measure is very much greater. In the conditions now existing, capital ships can be gotten into and out of the navy yard at New York only at certain tides, and, of course, at certain hours. In October of the year before last we had seven capital ships in the New York Navy Yard. They could be gotten out during only about two hours a day. The naval commander was unable to get out the chief ship himself, and had to get Capt. Dalzell to take it out with his tugs. A couple of sticks of dynamite would have dropped the Brooklyn Bridge and have rendered it impossible to get the ships out to sea for a long time, because they could not get through Hell Gate. No vessels, save one, of the fleet have gone through Hell Gate since Decatur's time, and his adventure was too hazardous ever again to be ventured. The channel in the upper bay is at points, as just above Robins Reef, only 324 feet wide. It could be stopped up for weeks by the sinking of ships loaded with heavy materials and explosives.

Commercial bodies in New York, and also members of the Government, are in favor of the bill, which will make a through channel from Sandy Hook to the Sound. According to distinguished engineers, most of that would be achievable, if money were provided, within three years and the whole within five. That certainly would be a great war measure. Competent authorities declare that waterway from Sandy Hook to the Sound would be for defensive purposes very much superior to the Kiel Canal. It would provide a channel, in parts of the way 900 feet wide, and in only two places would there be any very substantial diminution to 400 feet. That channel would be admirable throughout for operations of the fleet. You will remember that the Kiel Canal, which is the manifest example at the present time, has only seven turnouts in its 61 miles, and is obstructed by locks at the ends. This project—for a feasible channel for capital vessels of war from Sandy Hook to the Sound—has been before our engineers for many years. In 1853 Maj. Fraser, in his report to the Secretary of War, Mr. Jefferson Davis, pointed out the great importance of that channel, how vitally important it might be, not only to the city and State of New York, but to the whole Nation. That has been repeated from time to time by distinguished men, among whom are Admiral Dewey and Col. Black and almost all the officers who joined in the recommendation pursuant to the naval appropriation act of 1916, and by the Secretary of War, the Secretary of the Navy, and the President himself.

The bill introduced by my distinguished friend, Mr. Riordan, in October, has the approval of commercial bodies and others in New York. It provides for the completion of that channel, as indicated in the naval appropriation bill the year before last, within five years and as much sooner as achievable.

The channel in that bill provided for will vastly benefit the traffic of the entire Atlantic seaboard and the Gulf from Brownsville on the Rio Grande to Eastport on Passamaquoddy Bay.

The project therefor adopted in the statute for improvement of rivers and harbors in the last Congress will, however, benefit the City of New York relatively little. It fails to provide accessibility to the piers on each side of the East River. Mr. Riordan's bill provides for such accessibility, as recommended by the present Chief of Engineers when he was the district officer in New York, and that the City of New York shall pay for such accessibility up to $12,000,000.

It is not to be gainsaid that feasible improvement of the East River, adequate for operations of the fleet, is, as the far-sighted Maj. Fraser wrote Mr. Secretary Davis threescore and five years ago, a matter of very first importance, not to New York alone but to the whole Nation.

The matter of very first importance to the whole Nation may not be left to functionaries to be taught in the dear school of experience.

The matter of very first importance, not to New York alone but to the whole Nation, is a practical problem for practical persons.

The project to connect the North Sea and the Baltic was two centuries ancient before stout Nunez, silent upon a peak in Darien, stared at the Pacific with a wild surmise. Wallenstein cherished the design in 1626 in a scheme to destroy the naval power of the Scandinavian Kingdom, the Netherlands and England.

The duke's advisers pronounced it impossible. Other military men did the like for succeeding decades and decades.

As late as toward the end of the seventies royal experts, after new studies, pronounced the undertaking impracticable. In 1878 Herr Dahlström, a Hamburg shipowner, asked and got imperial permission to work out a plan. This, assisted by Naval Inspector Boden, he completed and handed over to the Government in 1881. Under this, a ship merchant's plan, adapted by Privy Councilor of Engineers, Baensch, between 1887 and 1895, the canal, 61 miles in length, was constructed from the Elbe to the Northern Harbor, at a cost of 156,879,000 marks, of which Berlin contributed 50,000,000 marks, waiving interest temporarily.

Of this channel it was boasted:

> The advantage of the canal for navigation is very important. Aside from its greater safety than by way of the boisterous Skagger Rack, illy notorious for its many shipwrecks, it is above all of shorter distance to all ports on the English coast south of Newcastle. * * * Also its military importance is not small. The canal makes possible transfer of the entire fleet, unperceived by the enemy, and, in brief, while from the North Sea into the Baltic and from the Baltic into the North Sea, as need be. In fact, the German Navy can pass in 16 hours from Kiel through the canal to the Bight of Heligoland, there to join the squadron sailing from Wilhelmshaven.

Reconstruction of the canal, increasing its width at bottom from 72 to 140 feet, its breadth at the surface from 213 to 330 feet and its depth from 29½ to 36 feet, was begun in 1908 and completed, at a cost of 224,500,000 marks.

So soon as reconstructed, it was reopened with imperial pomp, June 24, 1914. The tragedy at Sarajevo came June 28, 1914. Servia received the Austrian démarche July 23, 1914. War was declared August 1, 1914. Belgium was invaded August 3, 1914. Then men cried Havoc! and were loosed afield the dogs of war.

The matter of very first importance to the whole Nation is a practical problem for practical persons.

Surely the practical persons of this committee, of the Congress and of the country, may deem it worth while betimes adequately to improve these two waterways, the short estuary between the Hudson and the Sound and the great tidal strait from the Sound to Sandy Hook, in furtherance of the commerce which vastly advantages our national progress and prosperity, and to forefend, from beyond seas, ruthless attacks to subvert our comfort, our peace and our honor.

The CHAIRMAN. That is a fine statement, very clearly and forcibly presented.

Mr. HULBERT. These gentlemen were put to a great deal of inconvenience in coming here, because of the railroad conditions, which are very bad. We have now in New York a very acute situation to meet; it is very pressing and it affects every line of activity. For that reason it is important that it be considered fully and without delay. The next gentleman I will call is the engineer and surveyor under whose direction and supervision the State Barge Canal is nearing completion, Frank M. Williams, of Albany.

The CHAIRMAN. We shall be very glad to hear from Mr. Williams.

STATEMENT OF HON. FRANK M. WILLIAMS, STATE ENGINEER AND SURVEYOR, ALBANY, N. Y.

Mr. WILLIAMS. I wish to take up only a moment of your time. I shall not attempt to amplify the presentation of these projects that has been so ably made by Judge MacLean and Mr. Hulbert, except in one particular. I want to put the State of New York on record as being heartily in favor of these projects as advanced by the two previous speakers. The port of New York is the only seaport that the State of New York has. The congestion of that port, on account of the lack of facilities in caring for the traffic that enters that port from all parts of the country, is very great. That is the reason why the State and city officials urge the careful consideration of these projects. As to the one particular point in which I wish to amplify the remarks of Mr. Hulbert I will say this, that the State of New York has, as you know, for some years past been engaged in the construction of a barge canal. That Barge Canal usually is interpreted as meaning a canal running from Lake Erie to the Hudson River. In reality there are four canals in the State of New York, the improvement of which have been carried on simultaneously. The Champlain section of the Barge Canal has no connection with the Erie, except where it reaches the Erie; that canal is completed, and, therefore, affords full connection between the northern country and the seaboard. The Oswego Canal is also completed—a barge canal. That canal connects Lake Ontario by means of a junction with the Erie Canal, and that connects it with the Hudson River. The main line of the Erie Canal is the one usually regarded as the barge canal, because that is by far the most important. It will be open for navigation next spring—I feel no doubt on that point—unless some unforeseen occurrences arise, such as depriving our contractors of coal or the necessary material to do the remainder of the work.

The barge canal has four main termini—one on the Niagara River at Tonawanda, near Buffalo; one at Oswego; one on Lake Champlain; and the other on the Hudson River. It has been urged for some years that there be provided facilities at these termini, which will permit 12-foot navigation, so that the canal barges can get out of these waters that are under your control and over which waters we have claimed no jurisdiction. You have listened favorably to some of these projects. Some of them have been carried out in part, and for some others there have been provisions made which will insure their carrying out. In the case of the port of Oswego, the work was stopped on three or four occasions, until we could get the rock channel there, at the junction of Lake Champlain; and we have carried in the appropriation bill the amount which will be utilized to start that work and, I think, complete it.

Mr. DEMPSEY. Has that work on Lake Champlain been started, Col. Newcomer?

Col. NEWCOMER. The work has not yet begun. The plans are being prepared with an idea of starting it in the spring.

Mr. WILLIAMS. The money is available just as soon as the work can be begun.

Col. NEWCOMER. Oh, yes. We have a substantial appropriation, which is to be supplemented by another appropriation in the forthcoming bill.

Mr. WILLIAMS. One project undertaken by the State of New York has provided for the construction of terminals, which will consist of the necessary piers, docks, freight sheds, etc., with the machinery that is necessary to handle the freight; and quite a substantial appropriation is made to carry that into effect, amounting to something over $9,000,000.

Chapter 746 of the Laws of 1911, known as the terminal law, provided in some cases for the location of those terminals by defining where they should be located, and among other locations is one defined as the Borough of the Bronx, at East One hundred and Thirty-sixth Street. Now, a commission did outline a report upon which this law was based, and which commission recommended most of these locations. They recommended one at the Bronx, but placed upon that a condition, and it is the only conditional terminal in the city of New York that appears in the law. Apparently the commission felt that the uncertainty of the time when the Federal Government might improve the Bronx Kills made it undesirable to permit the State to complete the work until this other work should be done. There is one other provision that I would like to mention, providing for the construction, at the foot of East One hundred and Thirty-sixth Street, in the borough of the Bronx, a pier 60 feet wide. We are now charged with carrying out the provisions of this act with an expenditure of more than $9,000,000, in the city of New York. There are in progress most of the terminals which are laid down and provided for here. Most of the contracts have been let, and for the others plans have been prepared or are being prepared. I hesitate to permit the State to let such a contract as that here under consideration. That is the reason why I am appearing here at this time, to call your attention to this peculiar thing with which we are confronted, to this condition we have before us, and to the neccesity for remedying the situation. We want to know as soon as possible that you are going to undertake the Bronx Kills improvements.

Mr. Dupré. When was that legislation enacted?

Mr. Williams. In 1911.

The Chairman. At what points has the State of New York authorized the construction of terminals, and what is there status as to plans of construction or completion?

Mr. Williams. The city of New York?

The Chairman. No; the State of New York, in connection with the Erie Canal.

Mr. Williams. Beginning at the western end, there is a provision for two terminals in Buffalo, one at Erie Basin and one at the Ohio Basin. There is a provision for a terminal at Tonawanda and two at Brockport, and there is a provision for terminals at many smaller towns, coming down to the east of Brockport—perhaps 20 of them. Then we get to the city of Brunswick, where there is a substantial terminal being provided. East of Rochester there are terminals at Palmyra, and then when we get to Syracuse, where there is a very substantial structure costing about $1,500,000. Then on the Oswego Canal, which is, as I said, one of the four canals that have been constructed, we have two terminals, a lake terminal and a river terminal, both of which are in process of construction.

Mr. Dempsey. What is the cost of the Oswego terminal?

Mr. Williams. About $1,400,000.

Mr. Dempsey. Then, how much did you spend in excavating at the entrance to the lake?

Mr. Williams. About $60,000.

Mr. Gallagher. What lake?

Mr. Williams. Lake Ontario.

That money is expended in cutting a channel so that we will have 12 feet of water in the harbor.

Then, still in answer to your question, Mr. Chairman, we have two small terminals on Oneida Lake, one at Rome, and one at Utica; and on the canalized part of the river and at several places, some of which I have mentioned, including Schenectady, Brockport, Troy, and Albany. Then there are the terminals on the Champlain Canal.

The Chairman. Where are the terminals on the Champlain Canal?

Mr. Williams. At Whiteboro, Fort Edward, Mechanicsville, Waterford, Fort Hunter, Plattsburg. Those three latter are on Lake Champlain and were constructed as a part of the Champlain terminal system. Then coming down to New York City, we have, as I have said, the terminals provided for in that city.

Mr. Switzer. How many terminals are there?

Mr. Williams. Work is in progress on 13 and plans are progressing for three more. There are two of those locations which will require an agreement on the part of the State of New York and the city of New York, acting through the Commissioner of Docks and Ferries.

Mr. Dupré. They are being constructed at the expense of the State?

Mr. Williams. Yes, sir; some are not yet complete.

Mr. Dempsey. What is the total appropriation?

Mr. Williams. $19,800,000.

The Chairman. What is your official position?

Mr. Williams. State Engineer and Surveyor.

Mr. Dempsey. What is the expense of the construction of the barge canal?

Mr. Williams. The expense of the barge canal and the terminals, as provided for so far by appropriation, is $154,800,000.

The Chairman. Have you a map that will be available in connection with the barge canal and also showing the locations of the terminals, with any printed description of those terminals?

Mr. Williams. We have maps, Mr. Chairman, showing the exact location of each one of those terminals.

The Chairman. If they are available I will be glad to have them.

Mr. Williams. I shall be glad to send you one or any number you may care to have.

Mr. Gray. These are constructed by the State solely, these terminals?

Mr. Williams. Yes, sir. The municipalities have nothing to do with them except in one or two places, where they have provided a part of the right of way.

Mr. Chairman, do you think that you will want anything else in the way of maps, except that one showing the location of the canal terminals?

The Chairman. That is all that occurs to me at the moment, but if you have others that will be valuable in illustrating the work there, we will be very glad to have them.

Mr. Dupré. I see here a history of the State Barge Canal. It is very interesting. Was that issued by your department? Is that official?

Mr. Williams. That is not our publication. We have issued several. Perhaps that is the one published by the superintendent of public works. The situation in New York with reference to the canal is that they have the engineer's department and superintendent of public works; so they have the two departments. He has also gotten out some very interesting publications, and I will send some down to you.

The Chairman. We shall be very glad to have them.

Mr. Hulbert. There is also here with us, as a member of this delegation, a gentleman who was born in the Bronx, served as its borough president, had very much to do with the development of that community, which 35 or 40 years ago had a population of only 35,000, and now has a population of 750,000; and yet it is without any substantial water terminal, although it fronts on the Hudson River, the East River, and upon the Harlem River, and Long Island Sound. I introduce the consulting engineer of the Borough of the Bronx, Mr. Louis F. Haffen.

The Chairman. We shall be very glad to hear from Mr. Haffen.

STATEMENT OF MR. LOUIS F. HAFFEN, CONSULTING ENGINEER, BOROUGH OF THE BRONX, NEW YORK CITY, N. Y.

Mr. Haffen. Mr. Chairman and gentlemen of the committee, I am here in the interest of the municipality of New York and the State of New York, which, as Judge MacLean has told you, provides 40 per cent of the total revenues of this country. The City of New York pays 70 per cent of the taxes, as is generally reported——

Mr. Williams (interposing). The City of New York pays 70 per cent of the taxes?

Mr. Dempsey. In regard to the canal, you had better state whether the municipility or the State takes care of that.

Mr. Haffen. The State does it, but 70 per cent of the money comes from the City of New York.

In order to be brief, Mr. Chairman and gentlemen, I will not undertake to go over the subject again. It has been gone over very thoroughly. I will refer to the situation and the remedy proposed for the bend at the Johnson Iron Works, the High Bridge, and the Bronx Kills. The stream up there at Spuyten Duyvil is navigable at the present time. Down at the other end it is navigable, but the main obstruction is at High Bridge. I think the engineers of the War Department have authority to order the removal of this bridge or the piers thereof. The removal of said piers is absolutely necessary for navigation. The bridge was built originally between the years 1842 and 1848, for the passage of water. Both ends of it have no direct connection whatever to-day with the highways for vehicles. Today the vicinity of High Bridge has a few Italian residences. The village was a lively place some 30 years ago, but at present both the village and bridge are things of the past. These piers being removed, the stream could be dredged to a proper depth and width for the use of navigation. I believe that is the first thing that should be done. It was said by a representative of the City of New York that the board of estimate and apportionment was going to wait until the government at Albany and the Government at Washington had completed the removal of the obstructions at both ends before removing the piers at High Bridge. I should judge that the City of New York should act first, and that the Government at Washington should order the removal of these piers at High Bridge, which would make that stream navigable. They have the power to order the removal of these piers, and that would stop all this uncertainty that has been referred to by Commissioner Hulbert, and it would put an end to the question of sentiment that might be brought before us when the hearing is had upon that subject at New York. There is sentiment there.

Gentlemen, these piers at High Bridge should be removed and then the Government should take up the question of the dredging of the Bronx Kills. That same should be attended to immediately. The Government has absolute power there. As to this bend at Spuyten Duyvil, that can be taken care of very easily. I will say a word in connection with that. The proposition of the Government, as I understand it, would destroy the Johnson Foundry for the present. We all know, and especially those of the Army know very well, that the Johnson people are manufacturing shells for the Government, and that that branch of the Government is not going to allow the destruction of the Johnson Foundry while the war lasts.

We want speedy action in the removal of the piers of High Bridge and that some feasible plan be provided or adopted that will allow navigation through the Kills—Bronx Kills or Harlem Kills, as it is called, according as you live on one side or the other. I think the proper name is Bronx Kills, coming, of course, from Bronx myself. There is no doubt about the advantages that would accrue from that improvement. However, as I have said before, I think the first thing to be done is to order the removal of the obstruction at High Bridge; and the Government should act immediately, in cooperation with the city of New York; that is, the city of New York should be ordered to remove the obstruction, and then there would be no question of sentiment to be discussed at a hearing in New York later on.

Mr. Booher. What obstruction are you talking about?

Mr. Haffen. That at High Bridge. It has been said by a representative of the city government that they would not take any action in connection with the removal of the piers of High Bridge until the governments at Albany and at Washington had taken action at both ends of the stream previously.

Mr. Hulbert. Mr. Lewis said that that was taken by the board of estimates under the previous administration. That administration went out of office on the 31st of December.

Mr. Haffen. That is what I had reference to.

Mr. Hulbert. I want to make it plain that the present administration does not take that attitude.

Mr. Haffen. Yes. These piers should be removed, and then the city government of New York will know——

Mr. Booher (interposing). Is the city government asking the Federal Government to order that obstruction removed?

Mr. Hulbert. Let me answer that. I do not assume that it would be the duty of the city government to ask the Federal Government to order the city government to do something that the city government could do without it. I have started the machinery, but it requires the coordination of half a dozen different departments. I have said that if the War Department will give this order, that will expedite the activity of the several departments involved.

Mr. Haffen. If you had hearings on this subject in New York, you would have these various organizations appearing to urge the sentiment idea regarding High Bridge that has been spoken of here—that it is a historical monument, etc. It may be a historic monument, but it is useless otherwise.

The Chairman. The Board of Engineers have referred this report back to the district officer with instructions to give hearings?

Mr. Haffen. So I understand.

The Chairman. At that hearing presumably a stenographer will be present and take down the proceedings and transcribe it, so that the report will be available for use by the Chief of Engineers, or the Board of Engineers.

Mr. Haffen. Yes.

Mr. Hulbert. I will next introduce Mr. Olin J. Stephens, who is chairman of the committee on transportation of the Bronx Board of Trade.

The Chairman. We shall be very glad to hear from Mr. Stephens.

STATEMENT OF MR. OLIN J. STEPHENS, CHAIRMAN OF THE COMMITTEE ON TRANSPORTATION OF THE BRONX BOARD OF TRADE.

Mr. Stephens. Mr. Chairman and gentlemen of the committee, I think the matter has been gone over very thoroughly. I have a report of the hearing of January 13 before this committee, at which ex-Congressman Norton was one of the speakers. Have any of the present members of this committee been to New York to look over the situation?

The Chairman. Not recently.

Mr. Switzer. We were there in August, 1916.

Mr. Stephens. I will extend an invitation to this committee to come and look it over at the first opportunity.

The Chairman. Thank you.

Mr. Stephens. The population of New York was spoken of as being 5,000,000. It is now about 8,000,000. The Bronx is now well along toward 800,000.

There is no question about the removal of the piers at High Bridge. They should be removed, and if the War Department can hasten that, so much the better. We are working upon a proposition to change the plans at the Johnson Iron Works. These matters have been thoroughly gone over, and there is nothing I can say that would not be a duplication of what has already been said. I have been requested, though, to say a word about the tide-water canals. A bill has been introduced by Mr. Freeman——

The Chairman (interposing). Of Connecticut?

Mr. Stephens. Yes. We all know the burden that is now on the railroads, and the need of waterway cooperation all over the country. I believe the railroads have begun to realize that the low-grade, bulky freight must be carried by the waterways, and that every effort should be made by Congress to provide for such improvements as will make the waterways available for navigation; and I ask the favorable consideration by this committee of Mr. Freeman's bill. I have not the details of it, but, generally speaking, I am in favor of all waterway improvements. They are essential, especially at this time. The terminals are very much congested, and the railroads are congested, and there should be some relief provided; indeed, all the relief that can be provided, should be provided.

I think that is all I have to say on the subject. I have a few copies of a pamphlet here entitled "Bronx Waterways as Part of the State Barge Canals," an address delivered at the annual convention of the New York State Waterways Association, and held at Utica, N. Y., October 4 and 5, 1917, by J. W. F. Bennett, consulting engineer to the borough president of the Bronx. I will leave them with the committee.

The Chairman. We shall be very glad to have them.

Mr. Dempsey. Your idea is that the appropriations, instead of being made smaller during the war, should be increased because of war necessities?

Mr. Stephens. Absolutely; without a question.

Mr. Dempsey. Do you think that is the sentiment of the commercial bodies of the city of New York?

Mr. Stephens. As far as I know, it is.

The Chairman. Just this thought, Mr. Stephens: The chairman of this committee has received a number of letters from some gentlemen in Brooklyn and other sections of New York regarding the restoration of the Delaware and Hudson Canal, and I have substantially replied to each by commending their interest in it and stating to them that for various reasons canals had been disparaged in the public mind for a number of years; that some of them had been destroyed by either the voluntary or indirect action of the railroads, and the public as a whole probably were not at this time alive to the necessity of rebuilding or reconstructing these canals, and that it was important for those who believe in them to institute an intelligent propaganda in order to overcome that handicap. I also stated to them that it would be a question as to where the obligation should lie for their restoration, whether with the United States or the States, or the municipalities or through cooperation. I make that statement in order that you may have the benefit of at least the individual views of the chairman. The chairman believes in the extension of waterways, but legislation regarding that, as with all other matters, must be in response to intelligent public sentiment.

Mr. Stephens. Most of these canals, as you know, have been owned by the railroads. The sentiment, as I stated before, has somewhat changed. Take the Delaware & Hudson Canal, for instance. The railroad company, for reasons best known to themselves, decided to discontinue that service, believing, I presume, that they could make more money by moving that coal by rail instead of by water.

The Chairman. I think the franchise was granted for the construction of the railroad along the banks.

Mr. Stephens. Yes.

Whether it should be by local associations or by State and national, I am not prepared to say at this time; but I feel that if it is possible for the Government to take that up, it is best for them to do so.

Mr. Switzer. I am in full agreement with your idea for the improvement of our rivers and harbors, and I feel and have felt since I have been a member of this committee the last three or four years that we have practically appropriated everything that has been recommended by the engineers, and that has been the general feeling, I think, of the members of the present committee. We have a powerful agency in the City of New York that has heralded all over the country the information as they have interpreted it—and I refer to the press of New York—that of necessity everything we appropriated outside of New York was "pork." I suppose they do that for the purpose of discrediting the Rivers and Harbors Committee of the House of Representatives.

Mr. STEPHENS. If the influence in favor of waterways was as strong as some other influences which bear upon our press in New York, the word "pork" would be eliminated altogether. We have tried to do it, but unfortunately most of us are not as large advertisers as others.

Mr. DUPRÉ. Isn't it true that the press of New York is not altogether representative of the views of New Yorkers?

Mr. STEPHENS. It is. I do not think the press as a whole feel that way as much now as they have formerly. I think the influence of the commercial organizations is increasing with the papers, and the influence is to avoid these remarks.

Mr. DEMPSEY. I saw in one of the great newspapers of the Empire State issued a week ago yesterday that we had added $3,000,000 to the rivers and harbors bill beyond the amount that was originally contemplated, with some reference to "pork." which should be cut out in the interest of the public.

Mr. HULBERT. Mr. Hoover might help us out by ordering a "porkless" day.

I would like to call Mr. Edward J. Dolge, who represents the Harlem River Towing Line.

The CHAIRMAN. We shall be very glad to hear from Mr. Dolge.

Mr. HULBERT. He will be able to give some information concerning the necessity for appropriating for an ice breaker.

The CHAIRMAN. All right.

STATEMENT OF MR. EDWARD J. DOLGE, REPRESENTING THE HARLEM RIVER TOWING LINE, NEW YORK CITY, N. Y.

Mr. DOLGE. Mr. Chairman and gentlemen of the committee, I received notice of this public hearing only yesterday morning, and I am not prepared to make a long speech, expecting to be shown the report of the United States Army Engineers as to the proposed improvements, but I do want to say that I am heartily in favor of the first three points of the improvement in the Harlem River.

In regard to High Bridge, they do not need that bridge. It is my opinion that the removal of one or two piers of High Bridge should be ordered.

Then there is the project at Bronx Kills, which should have the consideration of this committee, as should also the bend at the Johnson Iron Works, but the first should have the thorough consideration of the towing interests of New York Harbor and a hearing should be had with the United States Engineers in New York City.

I have been connected with the towboat business for a good many years, engaged in the operation of towboats through the points I have spoken of, and from my experience I am in favor of widening and deepening the channel in the Harlem River, and this work should be done as quickly as possible as to the Bronx Kills widening as proposed. We will then have to depend actually upon the tide. We have to watch the tide, and if it is ebb tide we will be tied up, and we will often lose six hours there. There is a sentiment in New York in regard to this improvement, and we will do the best to have the shipping interests represented at the public hearing that is, I understand, to be given in New York on the subject.

Now in regard to the ice breaker.

Mr. GALLAGHER. You referred to the removal of one or two piers of High Bridge. Why not remove the whole bridge?

Mr. DOLGE. That could be done. It is the worst obstruction in the Harlem River. Everybody is scared of it.

Mr. SWITZER. Does the tide run through the Harlem River?

Mr. DOLGE. It comes from North River, backs through Spuyten Duyvil and goes down to One Hundred and Twenty-fifth Street and meets the East River tide, and goes through the Kills and meets again with the Sound tide, and vice versa.

Mr. HULBERT. That is the reason why it is said that the Harlem River runs in both directions.

Mr. DOLGE. Yes. These obstructions, and the lack of these improvements, cause us great hardships, and this bill would eliminate them. The Towboat Exchange, of which I am a member, indorses this.

Mr. GALLAGHER. Straightening out the bend there at the Johnson Iron Works, wouldn't that help relieve the situation as far as the tide is concerned?

Mr. DOLGE. There is one little space there where the tide can go in besides the two draws in the drawbridge itself, which should be widened and deepened. It is very hard there now to go in at high tide.

Mr. GALLAGHER. That drawbridge is a great obstruction to navigation, isn't it?

Mr. DOLGE. Yes; as to the ice breaker, the committee should consider the proposition thoroughly and approve same. We have had our tugs held up in Harlem River for days. During this present hard spell we were not able to navigate and could not move any coal boats owing to the ice. I also heartily approve of having those piers at Highbridge removed.

Mr. HULBERT. I will now call Mr. Reichert, of the Reichert Towing Line.

STATEMENT OF CAPT. J. C. REICHERT, REPRESENTING THE REICHERT TOWING LINE AND THE NEW YORK TOWBOAT EXCHANGE, NEW YORK CITY, N. Y.

Mr. REICHERT. Mr. Chairman, I don't know that I can add much to what has already been said here already.

I have had 17 years' experience in and about the harbor of New York. High Bridge is a very bad obstruction. I have had six towboats damaged very badly in going through there.

As Mr. Dolge was saying about the turn at Johnson foundry, that should be removed, and that bridge at Spuyten Duyvil. When you go in there, you must go in and let the tow fall up against the bridge, and unless you use a good deal of skill you will do a whole lot of damage to the boats. As far as the Bronx Kills is concerned, we are going to have a public hearing in New York.

As to the East River, I would like to say that within the last month a steamer called *Dimock* was sunk right in the middle of the East River. She is not the only ship sunk there. A large steamer from the Great Lakes was sunk above the Sunken Meadows, where she struck. There are rocks and shoals in the East River that should be removed to let the ships go through, going up and down there. They are dangerous. The Government has taken most of our good pilots away from us, and we have to depend on new men for pilots. We are training boys nineteen years old, and putting them into the service on these boats to navigate through these dangerous places, under bad conditions. They have schools turning out pilots and engineers in three or four months. It can not be done. You can not make a practical man in that time. It takes experience. I am in the towboat business now, having seven tugs. Two of them have been frozen in since around the 27th of December, and they are there yet.

Mr. Dempsey. What would that mean a day if they were in operation?

Mr. Reichert. Two hundred dollars a day.

Mr. Gallagher. Do you know of any places where the United States provides an ice breaker to keep navigation open?

Mr. Reichert. I do not.

Mr. Hulbert. The United States Government made an appropriation—for which information I am indebted to Judge MacLean—in 1852 for an ice breaker for Staten Island.

Mr. Gallagher. It never provided it.

Mr. Hulbert. Oh, I think it did.

Mr. Gallagher. That was when Vanderbilt was in business around there.

Mr. Reichert. There was one ferryboat chartered by the United States Army frozen in there Friday a week ago. I sent two tugs to the Cartaret Ferry to assist. They went down there and got this ferry out. Two ferryboats were broken down at Governors Island, so we had to go down there. After 24 hours' struggling with her, they got the ferry up at 4 p. m., and at 5 o'clock she lay at the bottom of the East River. I have three boats with broken propellers. It is safe to say that 65 per cent of all the towboats in New York City are crippled, and those that are running have pieces out of their propellers. I would say that 95 per cent of them are in a crippled condition, caused by the ice.

If the Government should build an ice breaker I would suggest that they consult men who know what the requirements are, so that the boat would be available for the purpose.

Mr. Gallagher. I think an ice breaker was provided by the navigation interests on the Great Lakes. Why can't that be done in New York?

Mr. Reichert. Well, the navigation interests on the Great Lakes, as I understand it, are all one concern. There is no competition. It would be a pretty hard thing to get them together in New York on such a proposition, for we have there something like seven hundred and fifty-odd tugboats. It would be a hard thing to get them to contribute. You would have a hard time getting it.

Mr. Hulbert. This would be for the benefit of the Government as well as for the private interests.

Mr. Reichert. Certainly it would benefit the Government. In the Great Lakes you have to transfer your freight to get it to the seaboard. Here we are loading it at the seaboard. We are handling coal for the ships and every kind of commodity that goes to France and the allies on the other side, and to our own armies over there. By having the tugboats tied up you are losing time in getting that freight handled. The tugboat is a very necessary article in keeping the freight moving. It is doubly important just now. A remedy should be sought for this condition, and a factor in it is the provision for an ice breaker, because that will aid in keeping the towboats available for moving the freight in seasons like this.

That is all I have to say.

The Chairman. Have you any idea what an ice breaker would cost?

Mr. Reichart. Just now; no. If we ever get down to hard pan or down to a normal basis, you could probably build one for $100,000. Now you could not build one for $250,000.

Mr. Lee. What is the method followed now to try to combat the ice in New York Harbor?

Mr. Reichart. We take out tugboats and run into it and break it up, but mostly the tug is broken up.

Mr. Lee. The companies working for themselves.

Mr. Gallinger. How about fire boats?

Mr. Hulbert. You would not dare to take a chance with a fire boat. It might be put out of commission and could not be used to take care of a fire along the docks if it was used for that purpose.

Mr. Gallinger. They do use them on the lakes.

Mr. Reichart. They are built for that. The difference in the lakes and New York Harbor is this: They expect it, while we do not expect it in the harbor of New York. In the last seven years, in fact since 1907, we have not had any ice, nothing compared with this, and what we did have was probably for two or three weeks only. We are bound to get some ice every year, but it don't amount to anything usually. To meet that emergency we ought to have an ice breaker. In the summer time it can be used for picking up driftwood which breaks propeller wheels and shafts. The damage that is done in that way would more than pay for two ice breakers.

Mr. Hulbert. I will now present Capt. William J. Murray, and then I have only one other speaker after that.

STATEMENT OF CAPT. WILLIAM J. MURRAY.

Mr. Murray. Mr. Chairman and gentlemen, the ground with regard to the improvement of the Harlem River has been very well covered, and I am heartily in favor of all of the recommendations. I want to speak particularly about deepening of the Bronx Kills and the ice-breaking steamer for the port of New York.

With regard to the Bronx Kills I might say from practical experience as a licensed pilot that at the present time in order to get from the proposed terminal to a point directly opposite into the East River it takes a tow from one hour to three hours, whereas, if this waterway were opened they could go in from 10 to 25 minutes.

With regard to the tide that the gentleman on my left speaks about, and the hindrance to navigation in the Harlem River, I differ for this reason, that in pointing out a six-hour delay in the Harlem River you might as well point out a six-hour delay in the East River. No one attempts to take a tow in the East River against the tide, which varies from 4 to 7 miles an hour, depending upon conditions. Therefore, I say if the Bronx Kills were opened and the northwest end of Randalls Island cut off so as to bring that tide around, it would be easier to get into East River. I think the reference to these delays is for this reason, that at the present time the boats operating in the little creeks and rivers are small boats with little power. The conditions adjacent to New York are so bad that the day is coming, and that within a short time, when we will have boats of twice the power of our present boats in order to carry freight through this proposed improvement into the improvements that are bound to come. The improvements in the Harlem River at High Bridge and at Johnson's Foundry, are necessary articles.

At the present time if there is the slightest mismanagement on the part of the pilot, even with a light boat, it will strike one of these sharp corners, and it might as well run into a mountain. The improvement at Johnson foundry could not be done at this time, I believe, but this should not hold up the improvement to Bronx Kills. I understand it, that is one of the improvements recommended in the Army engineer's report, that unless the city does this work that they will improve Bronx Kills.

With regard to the ice breaker, the port of New York was frozen over this year, I suppose, as bad as it ever was before, and there is no telling what will be necessary in the future. Our principal coal ports are in Port Reading, Elizabeth, and Perth Amboy, coming through Staten Island Sound. That is a narrow channel and freezes over very quickly. In order to move that coal the companies have been paying $500 and $600 per day for towboats, unsuccessfully, and the city of New York is destitute for the want of coal. Poor people stand in line for miles with bags on their backs—women and children—waiting for coal. Their houses would not be without coal if the city of New York had an ice breaker. The island containing the United States hospital is frozen in, and the only way they can get to them is to try to break through with tugboats and to walk the rest of the way. Ellis Island, Blackwells Island, Wards Island, with its asylum for the insane, North Brother Island for contagious diseases, and Heart Island for prisoners and the burial of the city dead, are entirely cut off, with no means of transportation, on account of this ice. Last Saturday night the steamer provided by the city of New York to carry the dead to Heart Island had on it 400 bodies, an accumulation of some three weeks, which could not get through before on account of the ice. Just think of the disease that is spread by such conditions. That boat went to Heart Island and got stuck in the ice, and I, myself, got a boat and went up there and cut her out, working until Sunday morning at 6 o'clock to get her out of there.

Those are the conditions that make the need of an ice breaker at the port of New York absolutely imperative. At the present time from Old Ferry Point; which is a few miles east of Hell Gate and near the head of the Sound, to a point near Cold Spring Harbor it is frozen over; where it is not solid ice, it is slush and soft ice packed together, and the biggest sound steamers have difficulty in getting through.

I do not care to take more of your time. I hope you will work out a system by which you will clear up the situation in the Bronx Kills and also the proposition of an ice breaker, within a few months. That is a Government proposition. It can be built right away. In answer to the gentleman that suggests that it be done by private interests, I would say that the same rule applies to lighthouses and buoys. It is a navigation project and should be done by the Government. The same rule applies to an ice breaker as to a lighthouse and I hope that this committee—I am not familiar with the workings and do not know how you will do it—but I hope that this committee will give us this improvement.

Mr. **Hulbert.** We have heard from representatives of the commercial organizations on the east side of the Harlem River and I desire to introduce Mr. Oscar C. Thees, of the Harlem Board of Commerce on the west side of the river.

STATEMENT OF MR. OSCAR D. THEES, OF THE HARLEM BOARD OF COMMERCE.

Mr. **Thees.** Mr. Chairman and gentlemen, I will simply emphasize and back up Mr. Murray's remarks about the necessity for opening up the Bronx Kills or Little Hell Gate. Either would answer the same purpose. One or the other is necessary in order to get the smaller shipping out of the way and the big shipping that goes through Hell Gate and which is hampered there by the currents and eddies of the tides going through Hell Gate. These tides make the water there very dangerous, and by making a pass through Bronx Kills or Little Hell Gate you would get the smaller shipping out of the way of the big shipping. As far as the danger of its forming dangerous currents there is concerned, I think they would be offset by the minimizing of the dangerous currents in Hell Gate. Gen. Black, who has made a survey there, says that the currents in Hell Gate will be cut down 2 miles an hour by opening up Little Hell Gate and Bronx Kills. The reason the waters come in so strongly is because of the basin that has to be filled between high and low water. That is the only water that goes in through at Throg's Neck and Hell Gate, and every extra opening that is made for that water going in and out of this basin slows up the current in Hell Gate just that much. There is very little influence on that part of Long Island Sound and every extra opening that you make to let the water into the East River without having to go through Hell Gate will help the water in Hell Gate and I do not believe the tides would be dangerous that would be found in East River. It is like water going out of a hose. It gets more force when you put on the nozzle. I would be safe in saying that the tide on the one side or the other of High Bridge is at least 6 or 8 inches high on the tide side. You take those piers out and that water would be practically level. The channel is so obstructed by these piers that the water rushes through there. If the channel was open, the whole body of water would be moved through very quietly.

I would like to call your attention to a fact that was brought out here and to emphasize it a little bit to your attention: That New York has spent $150,000,000 for what is practically a national waterway. The New York Barge Canal is more a national waterway than it is a New York institution, and when it comes time to appropriate money for New York improvements, I wish you would bear that in mind.

Mr. Hulbert. We are going to try to conclude now and I want to introduce Mr. John A. Wilbur, former secretary of the Harlem Board of Commerce.

STATEMENT OF MR. JOHN A. WILBUR, FORMER SECRETARY OF THE HARLEM BOARD OF COMMERCE.

Mr. Wilbur. I can not add much to what has already been said. The correspondence relating to the matter I submitted from the Harlem Board of Commerce to Maj. Adams, in November and December, 1917, and it is a matter of record. However, there is one thought that comes to me that I have not heard spoken of this afternoon, and that is that this is in the nature of a war measure. It seems to me that if the Kills were opened so there would be proper navigation through the Harlem River into the Hudson River, it might be a very important war measure in case something should happen to some of the many bridges across the East River that would stop navigation. Between the Battery and Hell Gate if any of these bridges were destroyed so navigation would be stopped, some of the smaller war craft and much commercial shipping could pass through the Kills and Harlem River into the Hudson River and down the bay. That seems like an important precautionary measure and it is the only thought that I wanted to emphasize, as it seems to have been overlooked.

Mr. Gallagher. Representative Dale, of New York, would like to be heard.

Mr. Hulbert. I first want to submit to the committee a letter which I have received from Admiral Usher, and ask that it be printed.

(The letter is as follows:)

United States Navy Yard,
New York, N. Y., January 22, 1918.

My Dear Commissioner Hulbert: I have received your letter of yesterday with much pleasure, informing me of your effort in behalf of an ice-breaking vessel for New York Harbor.

In my opinion this is a necessity which should no longer be unprovided. I have to suggest that the necessities of the harbor require competent ice-breaking vessels during time of need, and this present severe winter has brought it more than ever into evidence.

On my own part, I recommend two competent ice breakers built on the latest plans, and suggest that they be fitted also as fire boats, in this way giving additional security at all times to the harbor, and during icy periods making sure that the ice breaking can be continuous. My reason for recommending two ice breakers rather than one is that having broken a channel, it is necessary

to keep it open, and to this end two boats are necessary. I believe you will find that this is the correct practice elsewhere in localities where ice breakers are constantly in use.

Not only the main parts of the harbor, but also the Kills and adjacent bays—Newark Bay, Raritan Bay, Princess Bay, Pelham Bay, Westchester Bay—all of which are now busy waters, bearing a great and constantly increasing traffic. require the services of ice breakers this year, and, doubtless, will in other years.

I would also suggest that the subject of light draft be considered in one of these ice breakers, so that it may be used for the shallow waters of the bays in question. I suggest, also, that these boats have ample power for breaking any ice which even the most severe season can produce.

Wishing you immediate success in your recommendations for competent ice-breaking vessels,

Faithfully, yours,

N. R. Usher,
Rear Admiral, U. S. Navy,
Commandant Navy Yard and Station.

Hon. Murray Hulbert,
Commissioner of Docks and Ferries,
Pier A, North River, New York City.

The Acting Chairman. This evidence can not be transcribed for the gentleman to correct to-day but if you want to extend or revise your remarks and will make arrangements with the clerk, the whole testimony can be sent to you in New York and you can invite the gentlemen to fix it up in any way that you want and make any changes or extensions.

Mr. Hulbert. I next want to call upon Representative Dale.

STATEMENT OF HON. HARRY H. DALE, REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.

Mr. Dale. I am going to refer very briefly to the interest in this matter of Brooklyn, which is one of the large boroughs of the City of New York. I consider it my duty, owing to the agitation that has been going on over there for the last six months, to briefly present it to this committee. I realize that you have very attentively been listening here this morning and the early part of the afternoon and consequently I probably won't be able to say all I wanted to.

The merchants' associations and the manufacturers' associations, in fact, all of the civic bodies in the borough of Brooklyn, have taken a great interest in this proposition. A great part of that borough has its frontage on the East River, and I will refer only to the district that I have the honor to represent. So far as the water frontage is concerned, that runs almost from the Wallabout Basin, which is almost immediately connected with the navy yard, up to almost a line parallel with the Hell Gate channel. On that frontage are the largest manufacturing concerns in the world. I say that without any hesitancy. All of the large refineries of the American Sugar Refining Co. are there, and all the large cordage works are there, the large refineries owned by the Standard Oil Co. are there, and you can appreciate from all the things that are there the large piers that are necessary for the docking of the large boats which bring in and take out all that is necessary for the operation of the plants that I have referred to.

Now, back of that, of course, it must be admitted that there is a great population. I have no hesitancy in saying that there must be anyway 400,000 people there, a great many of whom are employed right in the plants that I have referred to. Now here is what I am driving at, and the remarks made by Commissioner Hulbert are very interesting as affecting this particular proposition, and that is "if when and where," as he stated, regarding the lump appropriation, it is contemplated now and as has been taken up by the associations that I have mentioned that the Government is going to take over these large piers. It may be necessary that in the very near future they will take them over for the purpose of taking out and bringing in whatever is necessary to properly prosecute this work. Now that is important, gentlemen of the committee. That being so, that especially must be done. If it is necessary to properly prosecute the war, you have got to take possession of the many large piers on that part of the East River which many of you are familiar with. When that occurs—it is going to occur—what is going to become of all of the large manufacturing plants on the river front. They have been establishing alternately large piers for the bringing in and the taking out of that which they have been manufacturing, and when the Government takes over the piers it will be necessary for us over there in the Borough of Brooklyn, fronting on the East River, where no more thickly congested part of any community exists—what is going to become of the manufacturing plants, which are at least indirectly necessary for the proper prosecution of the war? The answer to that is this, as has been so ably presented by Commissioner Hulbert, and where this lump-sum appropriation, as I believe it was characterized by the Commissioner, would come in for the preservation and protection of this great industry that will be crippled seriously if this committee does not seriously consider that proposition.

Mr. Hulbert. Mr. Chairman, in order to conclude this hearing I am going to call upon the senior member of the New York City delegation, Hon. Daniel J. Riordan.

Mr. Gallagher. I think that any of the New York delegation that wants to extend their remarks in this hearing should be given an opportunity to do so.

Mr. Hulbert. Those who have attended the meeting I presume have noted their appearance, and I think if the clerk of the committee would inform them of that action they would all be glad to file statements.

The Chairman. Without objection any member of the New York delegation of the city or State will have the privilege of submitting any remarks to be incorporated in the record of the hearings.

STATEMENT OF HON. DANIEL J. RIORDAN.

Mr. Riordan. All the previous speakers stated that they would take up only one minute and took five. I am going to take about two and stick to it.

There is hardly a thing that can be said about these various projects that has not been very thoroughly covered, but I want to emphasize two points. In accompanying Commissioner Hulbert yesterday to the Navy Department, Capt. McKean, than whom there is no more able man in the Army or Navy, and no better informed man, made a very significant statement. He said that we should secure the improvement of East River, and when we do get the improvements of East River, it will be possible to rendezvous the whole naval fleet in sheltered waters in Long Island Sound. There is not any question as to the truth of that statement. Anybody who has given a moment's consideration to the naval needs of the country knows how important that would be.

Nothing has been said about the coal conditions in New York. I represent the lower part of New York, Staten Island, and I think we are justified in finding fault with the delay of the Engineer Department of the United States Army. In the act approved August 8, of last year, there was a provision made to expend $50,000 on the channel between Staten Island and Hoffman and Swinburne Islands. The bids were opened only day before yesterday. Now what has happened.

All the coal for eastern New York; in fact, all the coal for all of the eastern ports has to come through Kill Van Kull. This has been congested with ice and everything has been frozen up in there. We have plenty of coal for our immediate uses at the tidewater there. I saw in the paper day before yesterday that there were some 400,000 tons waiting there to be transported, retarded by weather conditions, retarded by the ice, because we have only one outlet. If this improvement had been begun and completed we could have gone out the other way and unquestionably got very much more speedy relief. Now those are the only two points I wanted to cover, the necessity of the immediate improvement of the East River purely from the war measure viewpoint and the expedition of the improvements for which the money is recommended by this committee and appropriated by Congress for our rivers and harbors.

New York, as Commissioner Hulbert says, is growing at the rate of 100,000 people a year. Commerce has grown up with even greater strides, and we should get these improvements. New York State and New York City has proven on every occasion its patriotism. In its first subscription to the Liberty loan the amount was greatly oversubscribed, the allotment to the second Liberty loan was greatly oversubscribed, the Red Cross fund, Y. M. C. A., and K. of C. fund, and only the other day the United Jewish Charities almost trebled their allotment. Every time that the people of the State of New York are called upon to perform a patriotic duty they will respond. If the Congress of the United States, if the Rivers and Harbors Committee will give us any sort of adequate relief, they can be assured the city of New York will more than meet them halfway, carrying out to the fullest extent any relief that is given.

That proves that I have kept my word and talked only two minutes.

Mr. Hulbert. The meeting for the four matters that I brought up is completed. I wrote the chairman that there is a matter relating to a survey that I would like to bring up. I do not know whether I should bring it up before the committee or take it up with the survey committee.

The Chairman. We will hear it now.

Mr. Hulbert. For some time there has been an agitation for a bulkhead on what is known as Bay Ridge and Red Hook Shoal, in the center of the bay, over which there obtains about 14 or 15 feet of water. This separates the extension of the Ambrose Channel from the Bay Ridge and Red Hook Channel which connects with Buttermilk Channel and goes up to the navy yard. We need pier sites in New York City. The people who own the land in the neighborhood of the Bush Docks, and that belongs to the Government now or probably will as soon as the deal is consummated, complain that under certain water conditions it is very difficult to berth vessels on the Brooklyn shore and for that reason they have urged the necessity of this breakwater. My suggestion is that if the Federal Government will construct a bulkhead breakwater on the outer side of this shallow reef that is on the side adjacent to the main channel coming into New York Harbor, which is about 2,000 feet wide and at the same time provide for a channel off the Bush Docks, 2,000 feet wide, so that channel will have the same width as the main channel which is used in coming into New York Harbor now, then the city of New York will undertake the construction of a fill from which there may be projected 21 piers and upon which fill there may be constructed 27 warehouses, access to which will be given by float barges for railroads, which will enable us to provide a very substantial relief for the congested commerce of the port of New York.

I have had the chief engineer in my department sketch this out. There may be a good many criticisms that can be offered, one of which I will make myself—that for the number of warehouses that he indicates there isn't enough railroad trackage. But that is a detail. My object was to bring it up and submit it to you gentlemen here and ask consideration by you of the insertion of appropriate language in the annual bill that will enable the city authorities and the State authorities—because the State has control of land under the water, which of course I assume we can obtain by a grant from them—and the assistance of the War Department in working out the necessary details so that the proportionate expense to be paid by the War Department and the proportionate expense to be paid by the municipal authorities could be determined, and the necessary legislation would then follow. To carry out this particular work the expense for the city of New York for the construction of these piers would be somewhere in the neighborhood perhaps of $12,000,000 may be $15,000,000, and the warehouse and railroad accommodations might cost in the neighborhood of $65,000,000. I have discussed this matter with some of the most practical marine men in the city of New York, not one of whom has doubted not only the feasibility of this plan but have urged that it is a very substantial form of relief from the congested conditions in New York City. I should like to leave this particular map with the committee, would like to present it to you for your examination and consideration and to ask that some legislation be afforded in this coming bill that will enable us to take up the consideration and work out the details of this matter with the War Department.

The Chairman. Who was that bill introduced by—yourself?

Mr. Hulbert. Only for a survey. I have not had the opportunity to get to the part of drawing a bill.

The Chairman. Will you object if I submit it to Mr. Gallagher here now, or will you mail it?

Mr. Hulbert. What I wanted to do was to confer with the survey committee with regard to the form the bill ought to take.

Mr. Dempsey. Has the work on Hell Gate been started?

Col. Newcomer. We have just let the contract for the 40-foot channel through Diamond Reef. We advertised for bids earlier, but nobody would submit a price. The work is difficult and no contractor was willing to undertake it. After an informal conference we finally succeeded in getting a man who was willing to undertake the work at Diamond Reef. At Hell Gate itself we have not completed the arrangements however. We will probably have to do that with rented plants.

Mr. Dempsey. Are you going to let out the contract on the basis of a 35-foot channel or a 40-foot channel?

Col. Newcomer. On the basis of a 35-foot channel.

Mr. Dempsey. This bill provides for a 40-foot channel.

Col. Newcomer. No, sir.

Mr. Riordan. I am inclined to criticize the War Department in changing the instruction of Congress, which provided for a 40-foot channel.

Mr. Dempsey. I thought that was what we were getting.

Mr. Riordan. My attention has been called to the fact that the Chief Engineer's office is not carrying out the intent of the law of Congress.

Mr. Hulbert. May I have a moment on that. We got through an amendment for a 35-foot channel across Diamond Reef, and before the work was begun the War Department came in before us and recommended a 40-foot channel over Diamond Reef. The reason that was given for that was that by letting the contract for a 40-foot channel instead of for a 35-foot channel first and then going to 40 feet afterwards, the Government would make a substantial saving.

Mr. Dempsey. That is my understanding.

Mr. Hulbert. Now, if that is true of Diamond Reef, why isn't it true with regard to Hell Gate. If you are going to get a channel of 35 feet and then contract afterwards for a 40-foot channel where is the logic of it? The Army engineers deferred the construction of Diamond Reef under a 35-foot authorization until they could get a 40-foot authorization. Why make flesh of one and fish of the other? I thought when the bill became a law on the 7th of August that we would have a 40-foot channel through Hell Gate. I had conferences on the subject with Secretary Baker and with Secretary Daniels, and with the President himself, and it was the understanding that I got as the result of those conferences, and it was the understanding of Mr. Riordan, and I think it was the understanding of Mr. Dempsey, and I do not hesitate to say that it was the understanding of every Representative from the State of New York, that we voted for the bill because we believed that we were getting an authorization for a 40-foot channel through Hell Gate, and I think it is time to correct the misapprehension under which somebody is laboring.

Mr. Riordan. I intended to criticize the action of the War Department on that, because I think it is subject to criticism, but I did not have the time, and the matter was not touched upon.

The Chairman. Would you like to have the opportunity now?

Mr. Riordan. No.

Mr. Dempsey. It was my understanding, and I thought that it was the understanding of the committee that it was to be a 40-foot project that we voted for.

Col. Newcomer. I think that the matter may be cleared up by explaining some of the circumstances pertaining to the adoption of this project. Mr. Hulbert is mistaken in the impression that the Diamond Reef Channel was held up so as to get authority for the 40 feet.

Mr. Hulbert. I got through the amendment for a 35-foot channel, and when I found that the work was not being done and I called to find out why, I was told by Gen. Black that he proposed to recommend a 40-foot channel to save the necessity of asking the committee for the authorization for the 40-foot project later.

Col. Newcomer. The reason why was because after the authorization of the 35-foot channel the Navy asked for a 40-foot channel.

Mr. Hulbert. And they asked for a 40-foot channel through Hell Gate?

Col. Newcomer. No, sir; the law reads in accordance with certain documents, the documents providing for a 35-foot project. It was Gen. Black's report for East River, and that document is No. 140, or Senate Document No. 3, which was the document reporting the works necessary for a complete defense. But a reference to those documents will show, particularly the latter one, which was the one that mentioned the 40-foot channel through Hell Gate, that the joint board recommended 40 feet through Diamond Reef to the Navy Yard, which is being provided, and 35 feet through Hell Gate, to be deepened ultimately to 40 feet. This is the project which was considered and which it submitted in the report of the Chief of Engineers at the time this bill was under consideration, which provides 35 feet at Hell Gate. The committee at first was reluctant to authorize 40 feet through Hell Gate, which the Navy asked for. They authorized 35 feet, but subsequently it was decided that it would be better policy to authorize the full project as recommended by the Navy. When it came to appropriating the money Congress did not change the appropriation, which was for 35 feet, so the intention was very clear that Congress wanted 35 feet immediately and 40 feet ultimately.

Mr. Hulbert. I have not seen Document No. 140 for a long time, but I was very familiar with it when this provision was drawn. Mr. Small and myself drew this amendment and the subject was discussed at many conferences on my part with the War Department and the Navy Department, and even with the President.

Col. Newcomer. That document was clear on that point.

Mr. Hulbert. I prefer to rely on my memory to see how clear I am. That document provides four means by which the East River can be improved.

One was an ordinary 35-foot channel and another was a commodious 35-foot channel. Another was an ordinary 40-foot channel and another was a commodious 40-foot channel, and the only issue upon which there was any division in this committee was whether you were going to have an ordinary—that wasn't the word, it was "commercially navigable" or some such word as that—the only point on which there was a division was whether you were going to authorize the necessary 40-foot channel or a commodious 40-foot channel. There was not any question about the ultimate 40-foot channel. Here is the language of the bill itself: "For improvement in accordance with the report submitted in House Document No. 188, Sixty-third Congress, first session, and for a 40-foot channel through East River and Hell Gate." That is in accordance with House Document No. 188, Sixty-third Congress, first session. That is the project for $13,400,000 and for a 40-foot channel through East River and Hell Gate. That doesn't mean 35 feet now and 40 feet some other time. A 40-foot channel through East River means 40 feet, and that amendment was drawn by me and submitted to Mr. Small to put in the bill to carry out that intention. I understood, Mr. Riordan understood, and every man from New York who voted for that bill understood that we were getting a provision for a 40-foot channel and I submit that the Chief of Engineers can not read into the law a 35-foot channel, with an ultimate depth of 40 feet. He can not change the law as passed by Congress. Congress has not abrogated any powers. Here is an absolute declaration for a 40-foot channel, and I would like to know whether Congress will authorize the Chief of Engineers to set aside its language and to say in the face of the absolute urgency pointed out by the Navy that we are going to have only a 35-foot channel through the East River.

Col. Newcomer. May I be permitted to read from this document. The law says the project is adopted in accordance with these reports.

Mr. Hulbert. But for 40 feet.

The Chairman. I suggest that the colonel proceed without interruption.

Col. Newcomer. The report gives the recommendations of the General Board of the Navy, which was concurred in later by the Joint Board of the Army and Navy, and you will find on page 3 in item 61 (c), the item which we are now considering:

> The only connecting channel the construction of which or the improvement of which the Navy Department considers necessary is the channel through Hell Gate and East River between New York Harbor and Long Island Sound. This channel should be given a depth of 35 feet as soon as practicable and an eventual depth of 40 feet.

Mr. Hulbert. I understand that, Mr. Chairman, but we have an actual provision making it 40 feet.

Col. Newcomer. Having adopted the project in accordance with this document, if you had provided only for 35 feet it would have needed additional legislation later on to get it 40 feet. We understand that Congress has authorized this project as asked for by the Joint Board for a 35-foot channel now and 40 feet eventually.

Mr. Riordan. I am not lawyer, but I have got common horse sense. If anybody can show me how any construction can be put on that except that it was the intent of the committee and the intent of Congress to put in a 40-foot channel through Hell Gate, I am ready to be shown.

Mr. Hulbert. Let me supplement what Mr. Riordan says on the question of construction. If in the framing of the bill we had said, "for improvements in accordance with the report submitted in House Document No. 188, Sixty-third Congress, first session," leaving out the 40 feet, and in accordance with the report submitted in House Document No. 140, then this construction would justify Col. Newcomer providing as in paragraph 61 (C) for a 35-foot channel as soon as practicable and eventually a depth of 40 feet. This would be a proper construction to put upon the act of Congress. But in order to make a 40-foot channel available we modified House Document No. 140 by inserting in there that the channel was to be 40 feet from the time it was commenced. That is all there is to it.

Col. Newcomber. May I respond just a moment? The situation, I think, can be cleared up to your satisfaction, I trust, by the amount that was requested from the Engineer Department. That estimate was for a 35-foot channel. No estimate was made for a 40-foot channel, and the amount asked for was the amount appropriated. Congress appropriated the amount we asked for for a 35-foot channel.

Mr. Hulbert. The district engineer must have contemplated 40 feet when he asked for $6,000,000.

Mr. Dempsey. I would just make a suggestion, Colonel. Let me call your attention, if you will follow me, to the language here, which is, "for improvements in accordance with the report submitted in House Document No. 188, Sixty-third Congress, first session." Now if there was to be an improvement in accordance with that document, wouldn't you stop right there, and say nothing more? But you don't do that. You say something more, "and for a 40-foot channel through East River and Hell Gate." Don't you have to, as a necessary construction, give the language its ordinary and plain meaning? It is to do two things, to improve the East River in accordance with that document and improve it so as to get a 40-foot channel.

There are other facts set out in the report as to the manner in which the improvements shall be made, but the specifying of this document would mean, would it not, necessarily, all except as to the depth of the channel? In other particulars it would follow that document, but as to depth of the channel you are concluded and fixed by the exact terms of the law itself. Wouldn't that seem to be the correct construction of the act? And in that connection I would call your attention, that in construing any law one of the primary constructions is this: That you resort to extraneous documents only when the law itself is not clear. Now if it is not clear here what the depth should be, if they had used language which was uncertain or indefinite or hazy, don't you see on its face then you would have the right to go to this estimate to find out what was meant? But it does seem to me that the language here does, and I am assuming now, and not arguing this with any heat at all, it is merely a cold and intended to be a very polite and differential argument—I have no question at all that the department construed this act in accordance with what they believed to be the intention of Congress, but I am just pointing out these things. I am enumerating what seemed to me to fix the meaning the other way, and to point out that an honest error, it seems to me, has been made.

Col. Newcomer. I may state that we were probably influenced in our interpretation of the law by the knowledge of the circumstances under which the law was prepared. In other words, as I stated before, when this matter was taken up, the committee was not willing

to authorize the 40-foot depth and for that reason they said in accordance with these documents, limiting to 35 feet in Hell Gate, they would not authorize completely and in accordance with that document; that they would go that far now and would go the rest of the way subsequently. They modified that and put in the limitation that authorized the 40 feet. We interpreted that simply that they had waived that temporary limitation in the project, and were willing to authorize a project for 40 feet, but they appropriated only the money which was estimated for the other and we inferred that was the intention. Now of course we are not concerned about this matter one way or the other. We are trying to carry out the will of Congress. If it is the will of Congress that we shall proceed at once with 40 feet, contrary to the recommendation of the General Board of the Navy and the joint board of the Army and Navy, or if Congress for any reason decides that is the case, we are perfectly willing to obey. I think you will find that as a rule that is our reputation.

Mr. Dempsey. There is no question about that.

Col. Newcomer. It is simply an honest intent to interpret a situation which was more or less ambiguous. You will remember that when I appeared before the committee in connection with the estimates that I explained to the committee the attitude of the department on this matter so that I might be corrected if a mistake had been brought to the attention of the committee before this.

Mr. Dempsey. I am going to restate very briefly as clearly as I can just what seems to me to be the argument bearing for the construction of a 40-foot channel. The law as indicated is in the conjunctive. It is not "or" but it is "and." The improvement is directed to be made in accordance with the report, and for a 40-foot channel. That would seem to me to necessarily exclude the consideration of the document for the depth of the channel and leave it to be followed only in other respects. The language as to the depth is perfectly plain in the law itself; it does not resort to extraneous instruments such as the estimates or the hearings to qualify it or to make it certain. It is in plain and simple language which can not be misunderstood. For these reasons it seems to me and I urge that the plain meaning is that there shall be a 40-foot depth as of original construction and not ultimately to be reached. There is nothing in the law with regard to ultimate depth, and nothing except a plain instruction as to 40 feet.

Mr. Hulbert. Mr. Chairman, in House Document No. 188, this $13,400,000 project, we were entitled to a 35-foot channel. We provided for a 35-foot channel through Hell Gate. With regard to House Document No. 140, my recollection is that Col. Newcomer appeared before this committee and testified that a 40-foot channel through Hell Gate was not in his opinion urgently needed at that time. The matter had, however, been brought to my attention by the Navy Department. If you are going to take the question of extraneous matters for the purpose of determining the question of construction, then why not take the letters that were written by the Secretary of War and the Secretary of the Navy after the President had interested himself in this and they declared unequivocally for a 40-foot channel.

Mr. Dempsey. By the way Mr. Hulbert, those letters are not a part of the record. I was going to ask that so that they could be made a part of the record.

Mr. Hulbert. They were read into the Congressional Record (page 3690, take in letters) when the bill was under consideration in the House,; I shall put them in.

Navy Department,
Washington.

Hon. John H. Small, M. C.,
Chairman Committee on Rivers and Harbors,
House of Representatives, Washington, D. C.

My Dead Mr. Small: In a letter of May 7, 1917, regarding the approaches to the navy yard at New York, I quoted from the General Board as follows:

"Deepen, widen, and straighten channels through Hell Gate to Long Island Sound to a depth of 35 feet, and eventually to 40 feet, with a channel adapted to the use of vessels up to 1,000 feet in length."

While deepening and straightening the channel through Hell Gate will be of unquestioned advantage to the commercial interests of the country the strategic value to the Navy is so great that I believe consideration should be given to securing this channel of 40 feet depth at the present time. While in the beginning a concession was made to obtain a depth of 35 feet and untimately 40 feet, it is considered that it would be highly desirable, both from an economical standpoint and from a strategical standpoint, to have the work, after it was once begun, continued until the depth of 40 feet had been obtained throughout, and the straightening of the channel, in order to allow the easy and free passage of large ships as well as to prevent the formation of tidal eddies and currents, had been accomplished.

It will be readily understood that with a 40-foot depth of channel leading to the navy yard from the south and an equal depth through Hell Gate would practically double the strength of our fleet if concentrated in Long Island Sound, for the reason that the exits at Ambrose Channel and Montauk Point are so far apart that it would take double the force to contain our fleet in these waters in order to guard the outlets at both of these points to prevent the egress of our fleet.

. A deep channel through each entrance is desired in order to permit of the passage of vessels at all stages of the tide and without undue risk to the large and very expensive battleships of the near future, and also to permit the passage of these vessels through either entrance after having been injured in an engagement off the coast in the immediate vicinity. New York, being the center of commercial interests on our coast and the great commercial activity and wealth extending particularly to the northward of this point, increases the probability of an engagement somewhere in the vicinity of the eastern end of Long Island Sound. This also increases the desirability of having a deep channel through Hell Gate in order to carry a vessel or vessels safely through that may have been injured in an engagement in the vicinity of Block Island or Montauk Point.

Sincerely, yours,

Josephus Daniels.

There also came to the committee under date of May 15, 1917, a letter from the Secretary of War, which letter I desire to read:

War Department,
Washington, May 15, 1917.

Mr. John H. Small,
Chairman Committee on Rivers and Harbors,
House of Representatives.

My Dear Mr. Small: In the river and harbor bill, which I ventured to send for the consideration of your committee and for introduction into the House, I undertook, as you know, to provide for the continuance of necessary projects and the introduction of such new projects only as were directly concerned with the national defense in the present emergency. Many very desirable projects had to be omitted in view of the situation, and I have desired as far as possible to refrain from suggesting additions to the program contained in the bill. I have, however, taken up with the Secretary of the Navy the situation respecting the channel through Hell Gate in the harbor of New York, and after a full discussion of the subject the Secretary of the Navy has written you a letter in which he recommends that the bill be amended so as to provide for a 40-foot channel at that point. The bill under consideration looks to a present depth of 35 feet, and my judgment at the time the bill was drawn was that while the ultimate depth of 40 feet was contemplated the present improvement to 35 feet was all that could be at this time undertaken. As the result of mature reflection and in view of the recommendation of the Secretary of the Navy I beg leave to concur in the suggestion that an amendment be introduced providing for the present increase in this proposed depth to 40 feet. In other words, I am seconding the recommendation of the Secretary of the Navy, and I trust that you and your associates on the committee will find it possible to make this one change in the proposed measure.

Cordially, yours,

Newton D. Baker,
Secretary of War.

I have looked at Document No. 140. I said a few minutes ago that I had not seen it for a long time. What I stated about it was correct except that I used the word "ordinary" instead of "practicable." The joint board made a recommendation for a 35-foot practicable channel through the East River between New York Harbor and Long Island Sound, then it provided for a commodious channel of 40 feet. Then it provided for a 40-foot practicable channel through the East River. Then it provides for a 40-foot commodious channel through the East River and Hell Gate, $30,000,000. Now turning over to page 6 of that House document there is a summary in which it shows that there were two alternatives, a 35-foot channel and a 40-foot channel, and the committee in the preparation of that bill, rather in the introduction of the amendment which came in after the bill had been reported out of the committee, and was under consideration on the floor of the House, provided specifically for the 40-foot alternative. Congress says, "we hereby adopt House Document No. 140, providing that the channel which is authorized shall be 40 feet." That is what the language of this bill means and I do not know how anybody can get away from that interpretation.

The Chairman. The chairman would like just a few minutes without interruption. In view of the criticisms directed to the Chief of Engineers of the Army, that they have arbitrarily and improperly construed legislation by Congress, and having an opinion upon the matter myself, I think it only fair to the committee and to the War Department that I should make an expression at this moment.

The provision in the last river and harbor act, approved August 8, 1917, contains this language:

East River, New York. For improvement in accordance with the report submitted in House Document 188, Sixty-third Congress, first session, and for a 40-foot channel through East River and Hell Gate, in accordance with the report submitted in House Document No. 140, Sixty-fifth Congress, first session, $1,250,000.

It has been universally the practice of the War Department in interpreting appropriations made by Congress for improvements in accordance with reports, to refer to the reports. The reports confirm the details and the conditions upon which the appropriation is made available. The Engineers in the expenditure may not depart from the terms and the conditions in the authorization. The first document referred to No. 188, Sixty-third Congress, first session, was a project for a 35-foot channel under the conditions set forth in that report. The next document referred to, House Document 140, Sixty-fifth Congress, first session, was a second report under the authority of the naval appropriation bill by a joint board of the Army and Navy. Is that right?

Col. Newcomer. Yes.

The Chairman. The only specific recommendation in that report is this:

> 61 (c). The only connecting channel the construction or improvement of which the Navy Department considers necessary is the channel through Hell Gate and East River between New York Harbor and Long Island Sound. This channel should be given a depth of 35 feet as soon as practicable and an eventual depth of 40 feet.

That is the language that controls the adoption of this project in the law of August 8, 1917, to which I have referred and by which the War Department is absolutely bound. They can not depart from it. This language here that the channel should be given a depth of 35 feet as soon as practicable and an eventual depth of 40 feet is the language about which this discussion revolves. The War Department has construed the language that this channel should be given a depth of 35 feet as soon as practicable and an eventual depth of 40 feet. That means that they first shall provide a depth of 35 feet, and having obtained that they shall provide a depth of 40 feet. If the War Department has made any error, it has been an error made in the interpretation of this language. The language in the law "and for a 40-foot channel through East River and Hell Gate" is not controlling because it is followed by the language "in accordance with the report submitted in House Document Numbered One hundred and forty, Sixty-fifth Congress, first session," and therefore it must be construed and interpreted by the language of this report, and this report says that it shall be given a depth of 35 feet as soon as practicable and an eventual depth of 40 feet. Now the War Department, I assume, through the Chief of Engineers, has interpreted that language to mean that they shall proceed first to give a channel of 35 and ultimately a channel of 40 feet, and they will make estimates from time to time.

There is no question that 40 feet has been authorized for the East River from the Upper Bay to Long Island Sound. That is authorized. It is only a question of when the 40 feet shall be provided, whether it shall be constructed to a depth of 40 feet in the beginning in the original construction or whether 35 feet shall first be provided and then 40 feet shall then be provided. I submit that upon this language it is hardly fair to charge the War Department with any arbitrary action. I think as a matter of law, with some deference to these distinguished lawyers, who have expressed a contrary opinion, that the interpretation by the War Department is correct. That language which recommends that the channel shall be given a depth of 35 feet "as soon as practicable and an eventual depth of 40 feet" may well be construed as a direction that 35 feet shall first be provided, and then ultimately we shall have a channel of 40 feet.

I have stated this because I have the very highest regard for the technical skill, the training, and the absolute integrity of the Army engineers. I have had a great deal to do with them and I would not approach, even as chairman of this committee, an Army engineer with any suggestion that I would not offer to a trial judge in a case in which I was appearing. I regard them as acting in a judicial capacity in the interpretation of these laws and in carrying out the directions of Congress. I do not think there is any intent on their part arbitrarily or intentionally to misinterpret the legislative direction.

I am in sympathy with this project. Mr. Hulbert has been most active. I can say without any desire to be unduly complimentary that the insertion of this provision was very largely due to the insistence of Mr. Hulbert, who was a member of this committee at the time and a distinguished Member of Congress, but I do not feel that when a suggestion is made that the department, through the engineers, has intentionally failed to interpret the act of Congress, that it is scarcely justified.

Judge MacLean. Accepting the very judicious and judicial explanation given by the distinguished chairman of the committee, it occurs to me to say something further. Accepting the construction given by your honor to the phraseology in the act, it seems to me that if there be any ambiguity in that phraseology, and the fact being now that a depth of 40 feet through the channel at East River is admitted to be necessary, not only for big freighters but for battleships—the Kiel Canal is 36 feet—it would be an excellent thing for this committee to recommend as a solution of the difficulty arising from this phraseology that the depth be made 40 feet. Thirty-five feet is not ample for the big freighters now carrying grain—as was shown in the hearing before the committee on the differentials between New Jersey and New York, at which hearing I happened to represent the New York State Waterways Commission.

The Chairman. Now, judge, I have learned this morning to have a great deal of respect for the working of your mind and the clarity of your expression, but I submit this to you. Assuming all that you say to be true, regarding the necessity for the 40-foot channel; and assuming that the act which authorized this project, report No. 140, contemplated 40 feet, yet the controlling feature is the recommendation which the joint board, acting under authority in the naval appropriations bill actually submitted, and they submitted a recommendation that the channel should be given additional depth to 35 feet as soon as practicable and an eventual depth of 40 feet. This discussion revolves around the interpretation of that language. Now it may have been the wiser course to pursue for the joint board to have provided a channel of 40 feet in the first instance. It was so easy to have said so. But they said that the channel of 35 feet should be provided as soon as practicable and an eventual depth of 40 feet, and the War Department has construed that language to mean the construction of a channel 35 feet now and ultimately, which means subsequently, increasing it to a depth of 40 feet. When you were on the bench construing an act of the legislature and the legislative language was plain, you would disregard any suggestions of context, and would see that the plain intent of the language was carried out, and that the court would enforce it. If it was ambiguous you would seek other sources in order to find out what the legislative intent was. Unquestionably the legislative intent is embodied in this paragraph. Now if the War Department has improperly interpreted that, why that is another question, but if you were called upon to say whether their interpretation was strained or violative of the language, I think you would have some difficulty in doing that.

Judge MacLean. It seems that I have failed to make myself clear. Accepting all that the learned and distinguished chairman has said, even the compliments, my suggestion really went to this, that it might be pardoned and as I think would be very appropriate for this committee to resolve whatever ambiguity there may be in the matter by insertion in the coming bill or by any other direction that the channel should be 40 feet. The number of the House document which dealt with this matter I can not recall, but the necessity of a certain depth for the East River has been patent to the Navy Department, the officers of the Navy, for a long time. You will find in the document to which I refer, of which the number unhappily I can not give, that the discussions as to whether it should be 35 feet or whether it should be 40 feet were numerous. That matter passed through the hands of four and twenty of the most distinguished officers of the Navy and the most distinguished officers of the Navy recommended a depth of 40 feet, only one, as I recall it, recommending a depth of 35 feet. I think the chairman and the members of this committee will find upon due inquiry that unquestionably the depth should be 40 feet. I am not saying anything in regard to the interpretation of the act because I agree with your own interpretation of that. But it should be brought about that the lowest depth should be 40 feet.

The Chairman. Just a moment, if you please. I see now the phase of the subject to which you are directing attention. Now may I call your attention to this long practice. There have been scarcely any exceptions—I do not recall any, if there have been—Congress only adopts projects for the improvement of rivers and harbors, which are based upon examinations and surveys, which examinations and surveys were first authorized by Congress, and in adopting projects, as I said, it adopts them in accordance with the recommendations in the reports. Following that long-established practice, before this committee could recommend to Congress legislation that 40 feet be immediately provided in the original construction of this improvement, there would first have to be a submission or rather an authorization to the engineers or to some joint board like this was to ascertain whether they wished to modify their recommendations so as to provide 40 feet immediately.

Now the committee, certainly speaking for the chairman, has every appreciation of the importance of the great port of New York. My only purpose in intervening was to try to get down to the consideration of the interpretation of this report, and to see that if any mistake had been made in the authorization of the 35-foot channel as soon as practicable and 40-foot ultimately. It was not a mistake of Congress or the War Department, but it was a mistake, if at all, of the general board which made the recommendations. But I do wish to intervene when the suggestion is made and in an unreasonable manner that the War Department has misinterpreted and misconstrued the action of Congress.

Judge MacLean. This committee can have the advice of the engineers of the War Department and the advice of the General Board of the Navy and the joint board immediately or almost immediately. Would it be out of propriety to ask that advice?

The Chairman. If that board is still alive. If they are not functus officio and in pursuance of any wise action which they deem proper to take, they should now make a recommendation different from this, that is to say that a 40-foot channel should be provided immediately, it could be accomplished in that way.

Mr. Dempsey. One word. The chairman will, I am sure, recollect that I was as deferential and as courteous and as careful of imputing good as well as refraining from imputing arbitrary motives to the War Department as he is. I differ entirely from the chairman's conception of the act, and it seems to me that it can be shown conclusively by a very simple question that the interpretation placed upon it of being bound by the report and not by the act is absolutely impossible, and that it can be done by a very simple question.

The Chairman. May I just make this suggestion? There are ways provided by which a misinterpretation of any legislative act by any administrative officer may be corrected by an appeal to certain legal officers. Why not pursue that course?

Mr. Dempsey. I would like to spread this on the record. The act reads this way:

> For improvement in accordance with the report submitted in House Document Numbered One hundred and eighty-eight, Sixty-third Congress, first session, and for a 40-foot channel through East River and Hell Gate, in accordance with the report submitted in House Document Numbered One hundred and forty, Sixty-fifth Congress, first session, $1,250,000.

Now, if we are to be bound by the House document alone, was there any necessity for inserting anything at all with regard to the depth? Wouldn't that be absolutely superfluous? In other words, aren't you bound simply by the document in other respects, but not as to the depth? If you had intended to specify all the particulars, you would have enumerated them. So far as you specify one, doesn't that control and leave the document in force except as to the one particular matter specified?

The Chairman. Your query is appropriate, as all yours are. But may I suggest this that when the act says "and for a 40-foot channel through the East River and Hell Gate," it didn't stop there. Now is there any question that a 40-foot channel has been authorized through East River and Hell Gate, and the manner and the time in which it shall be provided, the relative time between 35 feet and 40 feet, all those details are covered by the report, House Document No. 140, referred to, and that says that there shall be a channel provided of 35 feet as soon as practicable, and a depth of 40 feet eventually. So the language in the act referring to 40 feet only is effective in authorizing a depth of 40 feet, and there is no question that the depth of 40 feet is authorized.

Mr. Riordan. I am the man that criticized the reading of the act, and I still criticize it, and I agree with Mr. Dempsey. I say now that the War Department has read into the act of Congress something that is not there. That I knew something about. I knew nothing about what took place in this committee. That was something that Congress did not pass on. They passed specifically on a 40-foot channel for Hell Gate. That is the law. I am the one that started the criticism, and I am ready to stand by it, and I have got just as much respect for Col. Newcomer and Gen. Black or anyone on the Rivers and Harbors Committee. I do not allege any reasons. I do not charge anything at all. But I do criticize their actions, and I think I am justified in doing so. I am not a member of this committee, and I am not in their inner circle. But I do know how that was put into the law. I did have something to do with that on the outside, and I know that the only information on the subject that I had, and the only knowledge that the Members of Congress had that voted for this law, and didn't have anything to do with the preparation of the bill and were not in the confidence of the Committee on Rivers and Harbors, some two hundred and odd men that voted, had no idea of anything but a 40-foot channel. I do not know how you beg the question. I think no other construction should be put on it.

The Chairman. I did not intend to say that anybody had been offensive to the Engineers. I repeat again the Engineers may be wrong, the War Department may be wrong, and it may be entirely proper to make an appeal to a legal officer.

Mr. Riordan. We have done it.

Mr. Hulbert. I am not given to offensive criticism of people or to any criticism unless there is absolute justification. I have criticised the Army Engineers with regard to this proposition, and I think with just cause. I have found the attitude of the Army Engineers toward the city of New York, in some cases—very few, I am glad to say—to be narrow, and I have correspondence in my files to support that statement. I have their declarations over their own signatures.

Now Mr. Gallagher opposed the river and harbor bill, as he had a right to do. Mr. Gallagher quoted on the floor of the House from the testimony of Col. Newcomer that a 40-foot channel in the East River was not needed, and you and I and every man who voted for that bill were opposed to that contention of Mr. Gallagher and thought we were getting a 40-foot channel for Hell Gate, and now it turns out we are not getting anything of the kind, except "eventually." That may be as far in the distant future as the 26-foot channel in the East River, which was provided for in 1868, and they haven't got it yet.

The Chairman. This is cumulative.

Mr. Hulbert. I want to ask if the appeal for the purpose of determining the question of this interpretation is first to the Secretary of War and then to the President.

The Chairman. I am not advised as to that. What I had in mind was that there must be some authorized procedure in perfecting an appeal from an administrative officer's interpretation of the law. The thought I had in mind was that the appeal might first be to the Judge Advocate General, the law officer of the department. Is he the law officer?

Col. Newcomer. Yes, sir.

The Chairman. And from him to the Secretary.

Col. Newcomer. The Secretary of War relies upon the Judge Advocate General.

Mr. Gallagher. It might go to the Department of Justice.

The Chairman. What I had in mind was to appeal to the Judge Advocate General and then to the Secretary of War.

Mr. Hulbert. My anxiety about the matter is, having assisted in the preparation of the amendment, having assisted in getting the bill through the House, I have been contemplating certain improvements as commissioner of docks of the City of New York upon the theory that we have a 40-foot channel through Hell Gate. Now I find out as a matter of fact that we haven't got a 40-foot channel and I can not predicate the improvements proposed upon the supposition that we are going to have a 40-foot channel eventually. I can not interest the people in the proposed improvements unless I know we are going to have a 40-foot channel. That is all there is to it.

Judge MacLean. As the highest court of appeal is the legislature itself, why can't that appeal be taken by putting in an amendment relieving all ambiguity?

The Chairman. Because a part of the statute here, the legislation authorizing this improvement, is embodied in the report, and for the reasons stated that it is the universal practice of this committee and Congress not to change a project as recommended in a report without resubmitting it. That states the obstacle to which you refer.

Judge MacLean. Not disputing that in any wise or calling it into question, but because of our great interest in bringing this about in New York, we would like very well to have this committee directly, or through the Secretary of War, convene the officials who have joined in that report and have them make or refuse to make a recommendation about the 40 feet. It would then solve itself.

The Chairman. Suppose Mr. Hulbert and you gentlemen take up that matter with the Secretary of War and the Secretary of the Navy.

Mr. Hulbert. We took it up with them, Mr. Chairman; each wrote a letter recommending and urging that there should be a 40-foot channel.

The Chairman. It seems impossible for me to make myself clear, so the discussion on that phase of the matter is closed.

(Thereupon, at 2.45 o'clock p. m., the committee adjourned, subject to the call of the chairman.)

MSH 26541

END OF
TITLE